

# International norm polarization: sexuality as a subject of human rights protection

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International norm polarization is a rare but recurring process within international norm dynamics. Polarization describes the most combative response to attempted norm change: ‘a candidate norm is accepted by some states but resisted by others, leading to a period of international disputation between two groups in which socializing pressures pull states toward compliance with rival norms’. We identify several cases of polarization and explain this phenomenon by elaborating the constructivist model of the norm life cycle to processes of international resistance to norm change as well as to norm acceptance. We also draw on social identity theory (SIT) to examine group-psychological responses where disputed norms become closely linked to state identity. We illustrate these dynamics with reference to conflict over the norm that recognizes sexual orientation and gender identity as subjects of international human rights protection. Over the past decade this candidate norm has become increasingly contentious internationally, and bitter debates over resolutions concerning extra-judicial killings and discrimination have divided the United Nations General Assembly and Human Rights Council. The article makes a primary contribution to analysis of international norm change and also contributes to an emerging literature concerning sexuality and international relations.

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## Introduction

Since the enthusiastic embrace of sexuality rights by the Obama and Cameron administrations in the United States and United Kingdom, the cause of eliminating persecution on the basis of sexual orientation and gender identity (SOGI)<sup>1</sup> has become increasingly visible internationally,

<sup>1</sup> These terms refer to people who identify as lesbian, gay, bisexual, transsexual, and intersexual as well as to ‘men who have sex with men’ and a variety of traditional sexual identities such as third genders.

and some Western European states have threatened to make aid conditional on governments ending criminalization. A narrow majority of states, including both influential Western powers and developing democracies (e.g. Brazil) now support the norm that SOGI should be recognized as a subject of human rights protection. This situation has most characteristics of the ‘tipping point’ stage of Margaret Keck and Kathryn Sikkink’s ‘norm life cycle’ model (1998), which anticipates that after such a tipping point is reached a candidate norm will cascade through international society. However, this has not yet occurred. Instead, several decades of debate over sexuality have produced international *polarization* in which two groups of states have adopted conflicting norms, and have clashed repeatedly over them.<sup>2</sup> These tensions, which have produced dramatic scenes such as a coordinated walkout from the United Nations Human Rights Council (UNHRC) when a report documenting violations of sexuality rights was discussed, risk undermining international support for the wider human rights project (*Pakistan Today* 2012).

One of the intriguing features of international polarization over SOGI rights is that the international dispute both shapes and is influenced by similar domestic contestation. For example, both the European Union and United States have given direct support to civil society groups that promote law reform in states that criminalize homosexuality, and the Russian Federation has nurtured an international network that includes groups promoting ‘traditional values’ and ‘protection of the family’ in opposition to sexuality rights. Meanwhile, domestic polarization over sexuality within the United States has promoted global division, as both American religious conservatives and supporters of sexual rights have exported their agendas by supporting allied civil society groups internationally. Although support for sexuality rights has become a norm for liberal democratic states, it faces sustained, organized challenge in the name of ‘Orthodox’, ‘Christian’, ‘Islamic’, and ‘African’ values. This dispute, which is of vital practical importance for vulnerable sexual minorities, also raises significant questions for constructivist theory.

States’ investment in disputing SOGI rights cannot readily be explained by either rationalist (the stakes are materially insignificant) or existing constructivist theories. To be sure, the constructivist model of the norm life cycle does anticipate domestic resistance to international norms and cases

<sup>2</sup> *Polarization* is a common term in political journalism that has been widely researched in domestic politics (e.g. Sunstein 2002; Hacker and Pierson 2005, 5–7). Although our focus is on norm polarization at the international level, further study of interaction between the two levels of polarization might potentially illuminate the processes by which groups undergo bifurcation and extremification.

of failed norm change. However, there are two surprising aspects of polarization over sexuality rights: first, why does *international* polarization persist? (as opposed to compromise, accommodation of pluralism or formal acceptance coupled with non-compliance); second, why do some states move toward increasingly divergent domestic positions? The Russian Federation's stance exemplifies this puzzle because, despite recent moves to criminalize homosexual propaganda, its laws have largely complied with the sexuality rights norm since it decriminalized homosexuality in 1993. Whereas Russia could easily have avoided international conflict, it has instead become a leader of the international campaign against sexuality rights. This combination of domestic compliance and international resistance reverses the relationship between formal recognition and compliance anticipated by the 'spiral model' of rights adoption (Risse and Sikink 1999). Admittedly, these puzzles are modest, as constructivist theory offers conceptual tools that can explain international polarization. Our primary contribution is thus to elaborate the norm life cycle model to processes of international *resistance* to norm change, rather than only to the process of norm acceptance.

International norm change has long been a central focus of constructivist international relations research, partially because constructivist scholars initially sought to challenge rationalist theories by demonstrating norms' influence over state conduct. The resulting emphasis on influential norms and instances of successful norm change prompted Jeffrey Checkel to observe that it would also be illuminating to study 'the dog who didn't bark' – unsuccessful norms (Checkel 1998). The 'norm life cycle' research agenda has subsequently expanded beyond its early interest in norms as a homogenizing force and now encompasses 'localisation' of international norms (Acharya 2004, 242), 'contested' compliance (Wiener 2004), outright rejection of candidate norms (Bailey 2008), norm disintegration (Panke and Petersohn 2012), demarcation of international hierarchies (Towns 2012), and efforts by peripheral actors to avoid external domination through construction of regional, 'subsidiary' norms (Acharya 2011).

Despite these advances, we do not fully understand dynamics that result from a 'negative fit' between international norms and local culture (Flockhart 2006, Flowers 2009) or from conflicts between human rights norms and other accepted counter-norms (Sikink 2013). The salience and fit of a candidate norm with domestic culture and political structure are well established as factors that influence norm change (Cortell and Davis 1996; Finnemore and Sikink 1998; Risse and Sikink 1999; Simmons 2009; Towns 2012). However, some norms cascade internationally despite strong domestic cultural resistance (e.g. the ban on female genital mutilation, Boyle and Preves 2000), some states reject some norms without significant

international disquiet (e.g. many states maintain polygamy and discriminatory divorce laws (Talaq) that breach international human rights conventions) and other norms are fiercely disputed although the material implications are slight (e.g. around whaling preservationism and sexuality rights). Cases of protracted conflict challenge early constructivist expectations that if international norms attain ‘domestic relevance’ then domestic actors who support an emergent norm will be strengthened by their association with international allies and will ultimately overcome state resistance (e.g. Risse and Sikkink 1999; Thomas 2002).

In this article we identify a process of *international norm polarization* (polarization) that builds on work emphasizing the importance of identity, legitimacy, and social hierarchy to norm adoption (Flockhart 2006; Flowers 2009; Towns 2012). Polarization resembles Amitav Acharya’s account of ‘norm subsidiarity’, which occurs when peripheral actors reject international norms in order to circumvent possible ‘domination, neglect or abuse’ by more powerful central actors (2011, 97). However, polarization differs from subsidiarity in two important dimensions. First, where subsidiarity involves *peripheral* actors, polarization can also involve powerful states (e.g. Japan’s resistance to the US-initiated preservationist whaling norm and Russia’s rejection of the sexuality rights norm). Second, polarization need not be motivated by material factors. Indeed, we consider cases that have very limited material consequences for states (although obviously not for specific groups within them).

We begin by defining international norm polarization and examining the constructivist literature’s treatment of disputation. We argue that the ‘norm life cycle’ and ‘spiral’ models have the capacity to explain *international polarization* as a response to norm change, even though their original formulations do not anticipate it: if two opposing networks of states and civil society actors form to advance rival norms then twin spirals may emerge that create centripetal pressures socializing states into opposing positions. Second, we consider group-psychological processes that may be conducive both to the emergence of twin spirals internationally and to divergent domestic responses. Here we combine systemic and reductionist explanations as we speculate that international socializing pressures might be buttressed by domestic group-psychological processes. We outline *SIT*’s account of polarization, consider whether group psychology could promote national divergence and consider the linkages with existing accounts of discursive self-other dynamics in international relations (e.g. Neumann 1999; Rumelili 2012). The claim that conflicts around identity drive intractable disputes is common to literature on ‘protracted social conflicts’ (Ramsbotham 2005), ‘securitization’ (Buzan *et al.* 1998), and ‘normative threat’ (Creppell 2011). However, identity-linked polarization has not

previously been considered in the context of international norm change.<sup>3</sup> We seek to illustrate the way in which responses to the sexuality rights norm have become discursively linked with national identity in many states. Going further, and testing the influence of social psychological processes through detailed process tracing across multiple significant states would require a larger project.

The concluding case study illustrates polarization between states seeking to make sexual orientation a subject of human rights protection, and those which resist this move in the name of tradition, culture, and religion. This case is deeply connected to earlier disputes over gender equality and women's sexual autonomy. However, whereas formal 'prescriptive commitment' to gender equality has cascaded internationally and is now accepted by most states despite endemic non-compliance (Brysk 2013, 259–63), international resistance to the sexuality rights norm appears to be deepening. To date, international polarization has primarily concerned a very general norm, 'that sexual orientation and gender identity should be subjects of human rights protection' (sexuality rights norm). This norm primarily prohibits criminalization of homosexuality; however, there are a cluster of related norms (non-discrimination, legal recognition of same-sex partnerships, and marriage) that are less accepted and not currently subjects of polarization.

Opponents generally argue that legal treatment of sexuality should be determined at a national level and not mandated by international human rights instruments. Opposition is typically framed as a defense of sovereignty that resists imposition of western cultural values and identity categories. Ironically, strongly anti-colonialist governments in Asia, Africa, and the Caribbean now defend laws that were often introduced under the British colonial regime and the 'tradition' referred to is often the legacy of 19th century missionary teachings or Marxist–Leninist revolutionary traditions (Epprecht 2005, 261–2). Contestation over the sexuality rights norm also motivates and intersects with wider challenges to universal human rights – most notably the Russian backed 'universal traditional values' campaign (Horvath 2014). These debates arise in a context where nationalism and communitarian philosophy, although frequently dismissed by western cosmopolitans, continue to be fiercely guarded in many states that have only recently gained independence (see Rao 2010).

The article makes three key contributions. First, we identify the phenomenon of international norm polarization, which describes the most combative response to promotion of a candidate norm internationally, and outline the potential for twin spirals of influence to emerge that support

<sup>3</sup> Cass Sunstein (2002, 185) briefly discusses international polarization.

polarization. Second, we examine divergence of domestic politics in the context of international polarization. Third, the case study contributes to an emerging literature on sexuality and international relations. International society's engagement with sexual expression is by no means new: for example, 13th century canonist analysis of Papal interference in infidel societies identified sexual violation of the natural law as one of only two circumstances justifying military intervention (Muldoon 1979, 5–13). Today, leaders of many developing states, particularly in Africa and the Middle East deploy anti-gay rhetoric and make homosexuality a fault-line for contests about western influence and a proxy for debates about 'modernity' and globalization (Kayal 2002; Altman 2008). Yet, international relations theory, including work exploring feminist theory, non-traditional security, and the internationalization of human rights, has rarely addressed sexual orientation (see LaViolette and Whitworth 1994; Kollman 2007; Parpart and Zalewski 2008; Simmons 2009, 70; Risse, Ropp, and Sikkink 2013; Ayoub 2014).

### **Polarization and the norm life cycle**

We define 'international norm polarization' as a 'process wherein a candidate norm is accepted by some states but is resisted by others leading to a period of international disputation between two groups in each of which socializing pressures pull states toward compliance with rival norms'. In order for the international dimension of the dispute to persist, centripetal socializing pressures within each rival grouping must be sufficient to prevent an international cascade of the rival norm. Nevertheless, domestic civil society groups advocating domestic norm change will often form alliances with their states' international opponents, in a process that resembles Risse and Sikkink's spiral model (1999).<sup>4</sup> For example, in our case, the Russian state has formed networks with conservative evangelical groups, and the European Union and the United States have provided resources and assistance to lesbian, gay, bisexual, and transsexual (LGBT) groups within states that oppose SOGI rights. International polarization promotes national-level disputation through the operation of these twin spirals of influence. While disputation over candidate norms also frequently occurs within states, our definition describes an international phenomenon.

We observe that a candidate norm typically only provokes polarization after, in at least some influential states, it has first been linked to the

<sup>4</sup> While the actors and iterative movement between domestic and international politics replicate the spiral model, some of the mechanisms by which states are brought to compliance differ.

collective identities of disputants. In a process resembling securitization, political actors make *distinguishing moves*: first they rhetorically link national identity to the state's position in respect of an international norm.<sup>5</sup> If this deepening of the connection between the norm and collective identity is successful, the norm may gain sufficient salience for a second step, of adopting a more distinctive collective position, to follow. Domestic *divergence* is not a prerequisite for polarization. However, we observe that in both the sexuality rights and whaling disputes some states have moved toward increasingly divergent positions. If a norm becomes closely linked to collective identity, then compromise and bargaining may become difficult as disputes are increasingly viewed as a zero sum game (see Hurd 2012, 107–8).

We focus on polarization over candidate norms that have limited material impacts on states because the identity-related aspects of norm contestation are most apparent in these cases. Although polarization in the absence of underlying material conflicts is rare, norm polarization commonly forms a part of other disputes. For example, the cold war period saw long-running polarization over many different norms that contributed to paralysis in bodies including the UN Security Council, the International Labour Organization, and negotiations over the International Seabed Authority.<sup>6</sup> Many contemporary international conflicts also involve disputes over norms that link to collective identity (e.g. disputation over regulation of genetically modified organisms (Stephan 2012) or proliferation of nuclear weapons). However, in many cases norm polarization is inseparable from wider security or economic conflicts.

We speculate that international norms concerning national regulation of individual behaviors (e.g. around gender, sexuality, race, psychoactive drugs, and some forms of environmental protection) may be particularly readily linked to group identity because they are often salient to individual identity – partly because religious moral codes often govern these behaviors and partly because late modern political cultures have become powerfully entangled with once-private and personal forms of identity and meaning.<sup>7</sup>

<sup>5</sup> A securitizing move involves identifying an existential threat to state identity and suspending normal political processes in order to address it (Buzan *et al.* 1998, 25). We thank a reviewer for highlighting the separate steps of deepening and divergence.

<sup>6</sup> US withdrawal from the International Labour Organization (ILO) in 1975 was notionally triggered by violation of the norm of trade union independence (Cox 1977). This dispute over the recognition of state-controlled unions persisted over the subsequent 30 years; the last major confrontation was a Western effort to block the All China Federation of Trade Unions taking up a seat on the ILO executive in 2005.

<sup>7</sup> Regulative norms are commonly distinguished from constitutive norms and procedural norms. Here, we also contrast norms regulating national laws concerning individual behavior

Moreover, since the economic and security implications for states are in some cases fairly minor, material incentives that might otherwise counter a tendency toward international polarization are often absent. Even so, the rarity of polarization suggests that identity-linked motivations are rarely foremost influences over state behavior. It is also important to recognize that norms concerning individual conduct may also engage other psychological motivations – for example, Martha Nussbaum characterises resistance to sexuality rights as a manifestation of a visceral projection of disgust onto other groups (2010, 13).

### *The norm life cycle*

Finnemore and Sikkink's 'norm life cycle' model identifies three key stages in the process by which a candidate norm is adopted as an 'international norm', understood as a standard 'of appropriate behaviour for actors with a given identity' (1998, 891). In the initial phase of 'norm emergence' civil society norm-entrepreneurs pressure and persuade key states to adopt a candidate norm. These states become 'norm leaders' who promote international acceptance of the candidate norm. A 'tipping point' may eventually be reached after which the norm 'cascades' internationally. At this point, sufficient 'critical' states 'endorse the new norm to redefine appropriate behavior for the identity called "state" or some relevant subset of states (such as "liberal" or "European" states)' (Finnemore and Sikkink 1998, 902). Finally, states may 'internalize' a norm so that it becomes 'taken for granted' and rarely questioned.<sup>8</sup>

Although the 'norm life cycle' literature focuses on drivers of norm change, it nevertheless reveals that when a norm is challenged its most ardent adherents usually respond by clarifying, rearticulating, and sometimes deepening their commitment to established norms. Pushback commonly occurs during both 'norm emergence' and 'norm cascade' stages. For example, opponents of female suffrage (DuBois 1998), supporters of traditionally practiced female 'circumcision' among the Kikuyu people of Kenya (Keck and Sikkink 1998, 66–72), and states resisting whaling preservationism (Hirata 2004; Blok 2008) have all responded to emerging norms by refining their arguments justifying a traditional norm and seeking

with norms regulating states' international conduct. The sexuality rights norm both regulates state laws and constitutes sexual minorities as categories of persons deserving human rights protection. (See Finnemore and Sikkink 1998, 891; Klotz 1999, 14; Björkdahl 2002, 15).

<sup>8</sup> Finnemore and Sikkink's model (1998) suggests the possibility of polarization if international norms dictate different behavior for groups of states with different identities (e.g. liberal states and Islamic states). Conflict arises in our case study because liberal states view the sexuality rights norm as having universal application.



to link the threatened norm to group identity. A similar period of disputation and reinforcement of existing norms typically arises in the second stage of the international norm life cycle in both domestic and international forums. For example, after South Africa's racial policies were first discussed in the United Nations General Assembly (1946) the new National Party government responded by refining arguments for non-interference in internal affairs and enacting laws to formalize discriminatory racial policy (e.g. the Mixed Marriage Ordinance 1949 and a Population Registration Act 1951; Klotz 1999, 41–44).

Keck and Sikkink (1998, 12–13) describe a 'boomerang' pattern where domestic NGOs recruit international allies to apply external pressure to states. The boomerang, and its subsequent elaboration as a 'spiral' model of human rights acceptance (multiple 'boomerang throws'; Risse and Sikkink 1999) describe processes wherein domestic reformers ally with international supporters and pressure states to move, incrementally, from repression to compliance with human rights principles. Scholars initially anticipated a gradual acceptance of many human rights norms. For example, Keck and Sikkink (1998) speculated that norms involving either (1) prevention of bodily harm to the 'innocent' or (2) legal equality of opportunity would likely gain cross-cultural acceptance – a prediction has not been fulfilled in the sexuality rights case to date.

We argue that the norm life cycle and spiral models of interaction between international and domestic society also describe processes of international resistance to norm change. For example, fierce disputation over gender and human rights in the United Nations Conference on Population (Cairo 1994) and the United Nations Women's Conference (Beijing 1995) demonstrated that those resisting norm change also form international networks and leverage international influence within domestic debates. These conferences saw conflict between two transnational activist networks and their state allies. Twin spirals emerged wherein the Vatican, many Middle Eastern states, and conservative allies in Western civil society opposed a women's rights agenda supported by many Western states and some non-Western civil society allies (Keck and Sikkink 1998, 180–89). While this dispute did not result in lasting polarization, the rival coalitions formed are largely the same as those that debated the 'universality' of human rights in the late 1990s (Otto 1997) and which now contest sexuality rights.

### *Incomplete norm cascades*

Although the norm life cycle literature focuses on norm change, almost every study also records opposition to reform. Scholars have examined

some individual cases of sustained norm disputation (e.g. biotech regulation Falkner 2007; Stephan 2012, regional resistance to death penalty prohibition Helfer 2002, regional resistance to international refugee norms Davies 2006) and in some cases have linked these disputes to national identity (e.g. Stephan 2012, 114). Disputation over the adoption of a preservationist norm within the International Whaling Commission (IWC) is possibly the most thoroughly researched case that clearly conforms to our definition of polarization (e.g. DeSombre 2000; Tanno and Hamazaki 2000; Skodvin and Andresen 2003; Catalinac and Chan 2005; Epstein 2006; Bailey 2008; Blok 2008; Hurd 2012). Considered in terms of the 'norm life cycle', the norm of whale *preservationism* emerged, was adopted by the United States and several of its allies, but only achieved a partial cascade, which was followed by a sustained period of disputation. Beginning at the Stockholm Conference on the Human Environment of 1972, the United States joined environmental groups in the work of persuasion now coupled with economic threats (DeSombre 2000, 208–9). However, the United States only achieved short-term acquiescence to its preferred policy. Cascade and internalization proceeded among a small number of whaling states (including Australia, New Zealand, the United Kingdom, and France). While Japan reluctantly acquiesced in the face of threatened US sanctions in 1974, it subsequently initiated a scientific whaling program and has repeatedly threatened to leave the IWC. Japan worked to ensure that others, including Iceland, Norway and later Denmark, and some Caribbean states, joined it in rejecting the candidate norm. Intense lobbying and stacking by both sides saw the IWC become divided between two roughly matched groups proposing preservationist and resource-utilization positions (Skodvin and Andresen 2003).

While the energy invested in the dispute is not justified by the marginal economics of whaling (Blok 2008, 45), Japan's seemingly irrational involvement might conceivably be explained either via the whaling industry's institutional influence or on the basis of Japan's concern that a preservationist norm might be applied more widely and could threaten access to more valuable ocean resources. The energy invested by preservationist states also confounds rationalist explanations. Before the emergence of a modest whale-watching industry, strongly pro-moratorium states like Australia had no material interests at stake. Nevertheless, increasing polarization has put the IWC's ongoing survival into question (Hurd 2012, 108).

Scholars investigating Japan's resistance to prohibitionism have pointed to many factors including state structure, culture, the illegitimacy of the preservationist norm, and its inconsistency with other international norms as contributing to this polarized outcome. Significantly, many accounts reference the norm's cultural incompatibility with Japan's whale-eating

‘gyoshuku-bunka’ culture (Catalinac and Chan 2005, 155) and reception as a threat to Japanese identity (Tanno and Hamazaki 2000; Hirata 2004, 187–8; Bailey 2008, 302–3; Blok 2008).

### SIT, polarization, and international relations theory

SIT is the leading social psychological theory explaining group polarization and associated processes of attitudinal divergence. SIT was developed in the late 1970s by Henri Tajfel and others to account for dynamics of human social categorization and assignment of value to those categories (Tajfel 1978; Turner and Giles 1981; Howard 2001). It describes mechanisms by which *individuals* preserve positive social identity, and links these to *social groups’* internal identity-preserving processes. SIT postulates a universal desire to preserve membership in esteemed social groups and suggests that this desire to achieve ‘group justification’ (Crocker and Riia 1990) motivates individuals to comply with group norms, to preserve separate group identity and to maximize group social esteem (Turner 1987, 37–41). SIT postulates that group polarization is one outcome of these dynamics.

In social psychology ‘polarization’ refers to an autonomous process where a social group adopts a collective position that is more extreme than the median of group members’ individual views. In the absence of a relevant external social context, social group opinions tend toward the average of individual members’ opinions. SIT is methodologically individualist in that its explanation of group processes is reducible to individual psychology. Hence, where a group perceives a contrast between the attitudes of the in-group and a salient out-group, individuals tend to consolidate and emphasize distinct group identity by enhancing differentiation from salient out-groups – that is by adopting a polarized position (Myers and Lamm 1976, 603). Not all group members experience attitudinal polarization; however, an individual-level tendency aggregates to a polarized group-level response. Such polarization has been observed in a wide variety of experimental and non-experimental contexts; examples of the latter include issues such as abortion and climate change within the United States (Abramowitz and Saunders 2008; McCright and Dunlap 2011; Hart and Nisbet 2012; see also Sunstein 2002).

Alexander Wendt’s (1999) account of state identity is probably international relations theory’s most influential application of SIT. However, social psychology also informs what Peter Hays Gries (2005, 237) has termed a ‘primordial super realist’ argument for the inevitability of interstate competition (Mercer 1995, 251); by liberals to ground the democratic peace thesis in a psychological explanation of public resistance to securitization of inter-democracy disputes (Hayes 2012); to classify the social orientations to trust

consistent with different international relations paradigms (Rathbun 2009); by constructivists to argue that the psychological capacity for membership in multiple groups (e.g. communities of states) allows for community to emerge amid anarchy (Cronin 1999); and to account for states' reception of international norms (Flockhart 2006).

Social psychology's capacity to explain state behavior has also been subjected to considerable critical scrutiny (see Goldgeier and Tetlock 2001; Greenhill 2008; Epstein 2011). Scholars applying SIT to international relations typically either follow Wendt in assuming that states and individuals share similar psychological attributes, or else view the state as a giant social group onto which they project theories developed in analysis of smaller social groups. Both approaches are vulnerable to critique. As Charlotte Epstein (2011) notes, the former 'states as persons' approach commits a 'fallacy of composition' by assuming that states and individuals share similar characteristics. Meanwhile, the latter approach ignores the role that political institutions play in reshaping human drives and motivations (Creppell 2011, 462; see Tajfel 1981, 7).

These concerns suggest that we should be cautious about applying SIT to international politics. Nevertheless, we consider the possibility that SIT might describe psychological 'microfoundations' that may sometimes influence the national reception of international norms (Rathbun 2009, 346; Creppell 2011, 461). We draw two key insights that may be relevant to national norm divergence from SIT. The first is an individual-level tendency: where a person perceives divergence between the norms they associate with a valued social in-group and those of salient out-groups, they may be motivated to shift their views toward a more extreme position compatible with that of the valued in-group. This tendency toward attitudinal polarization might potentially influence state policy in one of the two ways – either directly, by exerting a psychological influence on state decision makers, or indirectly, where changes in public opinion influence policy choices.

Direct influence might occur where a decision maker perceives a disjuncture between norms held by a valued in-group (the nation, the state executive, a political party, etc.) and an international candidate norm. If the decision maker sees the issue as salient to group identity, SIT suggests they may be psychologically motivated to promote the in-group norm. If additional psychological motivations, such as disgust (Nussbaum 2010) or sexual repression (Rivers 2011), are also involved, mutual reinforcement might occur. Of course, political leaders' views of national group norms may be idiosyncratic and non-representative. Such policies that reflect the idiosyncrasies of the state executive may be rapidly reversed by a change of administration if they are not institutionalized or embraced more widely.

Group-psychological polarization might exert an *indirect* influence if it alters the real or perceived domestic political implications (or audience costs) of different responses to an international norm (see Fearon 1994). While polarization might shift national opinion (e.g. leaked cables suggest the Australian government was constrained by popular opposition to Japanese whaling WikiLeaks 2009), it can also arise within sub-national social groups (e.g. US polarization over abortion (Abramowitz and Kyle 2008)). Such domestic polarization can lead to dramatic policy change between different administrations. For example, the Reagan Administration was deeply sceptical of international family planning movements, and introduced restrictions on funding, which were largely repealed under Clinton, reimposed under Bush Jr. and removed again by the Obama administration (see Girard 2004).

Another literature, drawing on social anthropology (Barth 1969) and the philosophy of Derrida and Levinas, explores the role of discursive self-other distinctions in international relations (e.g. Neumann 1999; Rumelili 2012). This work understands group identity as a relational concept wherein groups define themselves against ‘constitutive Others’, and researches group identity by focusing on groups’ own perceptions of the differences, which constitute their collective identity. SIT’s explanation of polarization is consistent with these accounts, but also specifies why group norms might move in a more extreme direction: actors who perceive a disjuncture between group norms and an international norm might attempt distinguishing moves to solidify collective identity.

If states sometimes adopt extreme positions, and sometimes move toward international conformation, this raises the question of when distinguishing moves will succeed. For example, when Tasmania’s laws criminalizing homosexual sex were challenged by a decision of the UNHRC, angry parliamentarians attempted a distinguishing move, but were repudiated by voters following intervention by the federal government (Tenbense 1996). By contrast, Russian laws prohibiting public discussion of homosexuality and permanently banning gay pride marches appear to have strengthened Vladimir Putin’s government, thanks in part to the support of the Orthodox Church (Putin 2011). The success of distinguishing moves may be influenced by a variety of factors including political opportunity structure, regime type, threat perception, and the connections between religion and national identity (Ayoub 2014); no psychological theory could fully account for this variation and it is clear that SIT does not exhaust the ways in which identity might guide responses to candidate norms (see Nussbaum 2010).

Nevertheless, since SIT describes a psychological process by which norms can be linked to group identity, it also provides some clues as to how

distinguishing moves can be successful. Here we draw a second key insight from SIT concerning collective opinion formation: individual identity is shifting and contextual. SIT conceives of the ‘self-concept’ as a collection of varying ‘self-images’, identities or roles that fall along a continuum between individuating personal characteristics (e.g. I like avocados) and social category characteristics (e.g. I am a student) (Abrams and Michael 1990, 3–4). Change in the self-image that is salient allows considerable flexibility in the discourses and values that can gain a person’s support. This suggests that one art of political leadership is to raise the salience of identities around which governing coalitions can be built. For example, US Republican strategists have self-consciously promoted polarizing identity issues (banning gay marriage, restricting abortion, etc.) in order to increase the electoral participation of evangelical Christians (Lindsay 2007). SIT’s account of the shifting ‘self-concept’ also leads us to endorse Charlotte Epstein’s argument (2011, 335) that state identity can be analyzed by studying official state discourse, as state discourse must preserve coherence between a state’s international position and domestic debates.<sup>9</sup> International polarization will inevitably require domestic justification, and can persist only for so long as influential domestic constituencies (not necessarily the mass public) tolerate a particular discourse.

### The sexuality rights norm

An international dispute over the sexuality rights norm first arose in the early 1990s, and, despite having only very minor security and economic implications for states, has subsequently become increasingly heated. While constructivist theories explain why some states would initially resist this candidate norm, the norm life cycle literature has not substantially engaged with the possibility of long-running *international* disputation. Moreover, constructivist theories do not anticipate states adopting increasingly divergent positions in respect of a contested norm. In this section we outline the trajectory of polarization and domestic divergence over the sexuality rights norm. We first trace the norm’s emergence and describe the subsequent international dispute in order to illustrate the formation of twin spirals of influence. We then turn to discursive identity conflict and draw on secondary literature explaining the evolution of individual states’ approaches to sexuality rights. We show that many states have adopted increasingly divergent positions and have discursively justified these positions in terms of group identity. While we do not demonstrate causality, the discursive

<sup>9</sup> Epstein (2011, 335) frames her argument in opposition to what she terms the ‘cohesive self that lies at the core of psychology’.

self-other dynamics apparent in this case are consistent with SIT's account of the psychological impulse to preserve distinct group identity.

### *Emergence*

Sexuality rights are only one of a number of issues encompassed within 'sexual rights', which are largely beyond the scope of this article because they are not currently subjects of international polarization. There are at least three ways of examining the development of 'sexual rights': through an examination of international law; through discursive shifts in the language of human rights; and through various attempts to institutionalize protection of such rights at both national and international levels (Wintemute 1995; Gruskin 2000; Graupner and Phillip 2005).

From a time where homosexuality was defined as a private deviance, typically governed by medicine and domestic criminal law, the sexuality rights norm is now fiercely contested internationally. This is partly because of a general shift in the international community's conceptualization of sovereignty, as a 'responsibility' to protect human rights has been accepted as a key aspect of sovereignty and legitimate concern of international society (Bellamy 2010). However, efforts to incorporate sexuality into human rights discourses have also been enabled by the growth of an international gay/lesbian movement, by shifts in global media portrayal of gender and homosexuality, and by the social and political consequences of the AIDS epidemic (Altman 2001).

In developing the International Human Rights Covenants in the 1960s the closest delegates came to discussing sexuality was in debates around the rights of women to freely enter into marriage, which was opposed by some as infringing different cultural traditions – marriage was understood as unproblematically heterosexual (Burke 2010, 128–9). The concept of 'sexual rights' developed out of debates focused on reproductive health, protecting women from sexually related violence, and also from the early formulations of 'health and human rights' that grew out of attention to HIV and its impact on already marginalized and stigmatized groups (Gruskin 2000; Barroso 2010; Harrington 2010). Central to these developments were the various large international United Nations Conferences – on human rights (Vienna 1993), Population and Development (Cairo 1994), and Women (Beijing 1995) – at which sexuality was first broached. 'Sexual rights' primarily related to protection of women against various forms of sexual violence, including rape and forced sterilization, but the concept of bodily autonomy was clearly threatening to many political and religious leaders. While most of those who spoke of 'sexual rights' did not address homosexuality, the term 'sexual orientation' was included in the draft

official documents (this bracketed text was ultimately dropped) and the possibility appeared as a ‘monster lurking behind’ every mention of gender or sexual rights (Wilson 1996, 216; Correa *et al.* 2008).

Over the past few decades various international legal bodies have extended some protection for SOGI. A report on ‘Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity’ submitted to the UNHRC by the Navi Pillay, the UN High Commissioner for Human Rights, in November 2011 provides an authoritative summary of many of these legal developments (Pillay 2011). The earliest moves to link human rights and sexual orientation arose at national and regional levels. The European Court of Human Rights was the first international body to find that laws criminalizing homosexual behavior violate human rights (e.g. *Dudgeon vs. United Kingdom*, 1981, *Norris vs. Ireland*, 1988, *Modinos vs. Cyprus*, 1993). The European Parliament has also passed several (non-binding) resolutions on human rights and sexual orientation and has exerted pressure on candidate countries to remove discrimination based on sexuality.

In 1994, in the case *Toonen vs. Australia*, the UN Human Rights Committee held that the references to ‘sex’ in article 2, paragraph 1, (non-discrimination) and 26 (equality before the law) of the International Convention on Civil and Political Rights (ICCPR) should be taken to include sexual orientation. The Australian federal government responded by overruling the criminalization of sexual acts between males in Tasmania (see Morgan 2001). This case created a precedent within the UN human rights system, which imposes an (often unenforceable) obligation on all signatories of the ICCPR. Thereafter, four other UN Human Rights Committees declared that their treaties should also be interpreted to protect sexual minorities and urged states to reform national laws (Lau 2004).

Within the UNCHR the argument that rights protection should be extended to cover sexual orientation was first articulated by Asma Jahangir, the Special Rapporteur on extra-judicial executions. Jahangir’s January 1999 report to the UNCHR argued that imposition of the death penalty for sexuality related offences breached article 6, paragraph 2 of the ICCPR (the right to life) (United Nations Commission on Human Rights 1999b). She called for universal decriminalization of homosexual acts and drew attention to extra-judicial killings on the basis of sexual orientation in Brazil, Colombia, and Mexico (United Nations Commission on Human Rights 1999a). The General Assembly’s Third Committee responded by adding specific reference to sexual orientation to its biannual resolution on extra-judicial killings (*Human Rights Monitor Quarterly* 2011). Over the following decade this resolution, which became the first formal reference to sexual orientation in a United Nations text, passed repeatedly but drew



regular challenge by the Organization of Islamic Cooperation (OIC) members (United Nations General Assembly 2001; Long 2005, 16).

The language of sexual rights and citizenship has been progressively adopted in a number of arenas, including discourses around health and international development (Richardson 2000; Adams and Pigg 2005). In 1996, South Africa became the first country to protect 'sexual orientation' in its post-apartheid Bill of Rights. In 2006 a meeting of the International Commission of Jurists and others in Indonesia drafted the 'Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity', which was a deliberate attempt to establish universal norms. By 2010, sexual rights had achieved a sufficient level of acceptance for the UN Secretary General, addressing a Russian-funded workshop on universal traditional values, to call for the complete and universal decriminalization of same-sex acts between consenting adults (UN News Centre 2010).

The sexuality rights norm has now gained wide acceptance in most liberal democracies including a number of Latin American states, Japan, and (usually) South Africa (a smaller number of states have also adopted anti-discrimination laws). Change is driven by diverse motivations including instrumental adaptation and strategic bargaining (e.g. the Russian Federation decriminalized homosexuality in 1993 in preparation for membership of the Council of Europe), moral consciousness raising and persuasion (e.g. South Africa's post-apartheid rejection of all forms of discrimination), institutionalization, and habitualization (e.g. rapid cultural change has followed court-imposed legalization of homosexuality in the Republic of Ireland) (see Risse and Sikkink 1999, 5). Numerous NGOs have worked internationally and domestically over several decades as norm entrepreneurs;<sup>10</sup> some (mostly Western European) states have been consistent norm leaders while several others (including Brazil and South Africa) have lent intermittent support. Both the European Union (primarily through its accession processes), and more recently the United States have used diverse incentives to promote wider acceptance. Several states (including Mauritius, Nauru, Palau, Sao Tome and Principe, and Seychelles) have decriminalized homosexuality directly in response to recommendations by the UNHRC's universal periodic review process (Pillay 2011, 14). Legal, psychiatric, and public health epistemic communities, especially those

<sup>10</sup> These include: The International Gay and Lesbian Human Rights Commission (IGLHRC), Amnesty International, Coalition of African Lesbians, Council for Global Equality, Heartland Alliance for Human Needs & Human Rights, Human Rights Watch, the International Lesbian, Gay, Bisexual, Trans, and Intersex Association (ILGA), International Commission of Jurists, Sexual Rights Initiative.

working on HIV, have played an important role in ‘socializing’ individual states. By 2011, Navi Pillay’s report for the UNHRC could identify 54 states that had adopted laws prohibiting discrimination in employment (a marker of internalization of the sexuality rights norm) and 16 states (including India and the United States) that had decriminalized homosexuality in the previous decade; however, homosexual sex remained illegal in 76 states and attracted capital punishment in at least five (2011, 13–17).

### *International contestation*

An international campaign against the sexuality rights norm has involved religious organizations (e.g. The Holy See) and inter-governmental organizations (primarily, OIC, African Group, and Arab Group). Several states have been consistent leaders opposing sexuality rights, among them Russia, Egypt, Iran, and Pakistan. Key flashpoints around which international polarization has developed have included recognition of SOGI in General Assembly resolutions (since 1999), efforts to make aid conditional on protection of sexuality rights, acceptance of a report on SOGI discrimination by the United Nations Human Rights Council (2011), and around a Russian campaign in the UNHRC for recognition of universal traditional values (since 2008). Many states have also redoubled their domestic oppression of sexual minorities (discussed later), and have used ‘political homophobia’ to strengthen appeals to a masculinist nationalist identity (Boellstorff 2004).

International polarization first gained prominence in 2003 when Brazil led a move to include sexual diversity within the purview of international human rights, introducing a broad draft resolution (E/CN.4/2003/L.92) titled ‘Human Rights and Sexual Orientation’ to the UN Commission on Human Rights.<sup>11</sup> However, voting on the resolution was delayed and then, in 2004, Brazil backed off and requested what became a permanent postponement. Activists claim this retreat occurred in the context of trade threats by OIC members (Long 2005, 15) and because the United States intended to abstain from any vote (Lau 2004). As Holning Lau (2004) has argued, on this issue the United States abandoned its traditional insistence on the universality of civil and political rights, and instead promoted cultural relativism. State Department spokesperson, Richard Boucher, explained that since different US states had different legal approaches, it was difficult for the United States to support a measure that condemned discrimination on the basis of sexuality and required ‘some sort of universal

<sup>11</sup> Disputes over ECOSOC’s accreditation of Gay, Lesbian, Bisexual, and Transexual NGOs were an important precursor to contemporary debates (Sanders 1996, 97–8).

application through the system' (Boucher 2003). This position presumably reflected the influence of Christian traditionalists in George W. Bush's Administration.

Opposition to the spread of sexuality rights through the UN system gained strength toward the end of the decade and began to influence discussion of a wide range of human rights issues. For example, there was acrimonious debate in the Third Committee in 2009 when Martin Scheinin included assessment of impacts on lesbian, gay, bisexual, transsexual, and intersexual individuals in his annual report as special Rapporteur on counter terrorism. Moreover, hostility to sexuality rights began to color an increasing range of otherwise uncontroversial and tangentially related issues. For example, in 2010 the General Assembly rejected the Special Rapporteur on Education's final report because it asserted a right to 'comprehensive sexual education', while negotiations over a resolution on the rights of the child were disrupted because the Holy See and some OIC members objected to language that might conceivably support sexuality rights (International Service For Human Rights 2011a, 1–2).

In this increasingly polarized environment Benin, on behalf of the African Group, sponsored an amendment to remove 'sexual orientation' language from a routine extra-judicial killings resolution in November 2010. When this amendment passed (79 to 70, 17 abstentions and 26 absent) (International Service for Human Rights 2010) Susan Rice, the United States Ambassador, was so 'incensed' that she immediately sponsored an alternative resolution. Her campaign succeeded rapidly. The General Assembly voted the next month to restore the reference to sexual orientation (93 to 55, 27 abstentions). The OIC, Arab, and African Groups were again key opponents; however, the unity of the African Group was broken when, under US pressure, South Africa, Angola, Cape Verde, and Rwanda supported restoration of the text (International Service for Human Rights 2011a).

The Obama administration has subsequently promoted the sexuality rights with increasing vigor. It was instrumental in ensuring that the UNHRC passed Resolution 17/19 concerning discrimination on the basis of SOGI (United Nations Human Rights Council 2011). The resolution commissioned 'a study documenting discriminatory laws and practices... against individuals based on their sexual orientation and gender identity, and how international human rights law' could provide redress. Whereas the earlier Brazilian resolution suffered from a lack of coordination among supportive states and NGOs (Long 2005, 15), preparation of Resolution 17/19 was more careful. Voting (23 in favor, 19 against three abstentions) again saw strong opposition from the OIC, Arab Group, and African Group. However, in order to avoid the impression of north-south division, South Africa was chosen to present the final text.

States resisting this resolution repeatedly stressed the threat posed to identity. Nigeria responded on behalf of the Africa Group, complaining that South Africa had broken ‘the tradition of the African group’ by siding with the West since sexuality rights go ‘against everything we stand for in Africa’ and should not be ‘imposed’. Pakistan, speaking for the OIC, denounced an ‘attempt to introduce to the UN some notion that has no legal foundations in any international human rights instruments’. Meanwhile, the Russian Federation worried that creation of a ‘new category of persons’ would weaken the protection afforded to other groups (International Service for Human Rights 2011b). The dispute continued on 7 March 2012 when many members of the OIC, Africa Group, and Arab Group staged a coordinated walkout as the UN Human Rights Council discussed the report on sexual orientation-based discrimination commissioned by Resolution 17/19. Pakistan’s envoy explained that ‘licentious behaviour promoted under the concept of “sexual orientation” is against the fundamental teachings of various religions including Islam’ (*Pakistan Today* 2012).

Moves by some states to make development assistance conditional on acceptance of homosexual rights has become another recurring source of disputation. Negotiations over the Cotonou Agreement, which covers trade and political relations between the European Union and 79 African, Caribbean, and Pacific states, created one flashpoint. In advance of the first scheduled 5-yearly revision (negotiated in 2010) the European Parliament demanded that ‘actions conducted under the terms of the various partnerships be pursued without any discrimination on grounds of gender ... sexual orientation or against people living with HIV/AIDS’ (European Parliament 2010). African, Caribbean, and Pacific states unanimously rejected this effort and made written demands that the European Union ‘refrain from any attempts to impose its values’ concerning the ‘phenomenon of homosexuality’ (African, Caribbean and Pacific Group of States 2010). The European Parliament’s Intergroup on LGBT rights condemned the subsequent compromise that avoided specific reference to sexuality as an ‘abdication’ of ‘European values’ (European Parliament Intergroup on LGBT Rights 2010).

Aid conditionality provoked another more vociferous backlash in October 2011 when UK Prime Minister David Cameron, speaking at a Commonwealth Heads of Government Meeting, raised the possibility of withdrawing bilateral aid (general budget support) if African states did not decriminalize homosexuality (BBC News 2011a). Many African leaders condemned this proposal as paternalistic and an affront to national (typically characterized as Islamic or Christian) identity and culture. For example, Prime Minister Mizengo Pinda explained that ‘Tanzania has

refused to accept homosexuality because the country wants to safeguard its people's moral standards' while his foreign minister, Bernard Membe asserted that 'homosexuality is not part of our culture and we will never legalize it' (Mbuthia 2011). Ugandan presidential adviser John Nagenda complained that Ugandans were 'extremely uncomfortable with being treated like children' (BBC News 2011b). More recently Ellen Johnson Sirleaf, the Liberian president and Nobel peace prizewinner, has defended a law that criminalizes homosexual acts, saying: 'We like ourselves just the way we are', embarrassing Tony Blair with whom she was sharing a stage (*The Guardian* 2012). Significantly, relatively unpublicized bilateral pressure, such as that applied to Malawi by Germany, appears to have enjoyed greater success in influencing national policy.

Russia's campaign to achieve international recognition of 'universal traditional values' became another flashpoint for disputation over the sexuality rights norm when, in a speech to the UN Human Rights Council on 18 March 2008, it condemned the 'extreme feminist and homosexual attitudes' that had sidelined traditional approaches to human rights (Horvath 2014). In 2009, a Russian resolution proposing a workshop on the 'traditional values of humankind underpinning international human rights norms and standards' was adopted (26–15) despite strong western opposition (Human Rights Council 2009). The subsequent Russian-funded workshop saw disputation between Navi Pillay and Russian-backed civilizational experts and clerics. A further resolution promoting traditional values (1 Sept 2012) appeared to be a victory for opponents of the sexuality rights norm. However, the original Russian draft resolution was gutted and the key phrase, which suggested that human rights were only valid if they were consistent with the 'traditional values of humankind', was removed (Human Rights Council 2012).

It remains possible that current polarization is only a hiatus that will eventually give way to a full cascade of the sexuality rights norm. Diverse forms of socialization are operating to expand LGBT rights within key reactionary states, as is evidenced by recent court decisions in Turkey (Amnesty International 2010) and in respect of the Russian Federation by the European Court of Human Rights (*Alekseyev v. Russia* 2010). However, one decade after Brazil's ill-fated promotion of a sexual orientation resolution, international disputation is gaining intensity. The OIC, Arab Group, and most members of the African group are unwavering in their opposition, and state-sponsored homophobia is increasing in many places, including many states in Africa and the Middle East (Altman *et al.* 2012, 442–4). Looking forward, the economic rise and associated cultural assertiveness of major developing states could also conceivably bolster resistance to the globalization of 'liberal' norms.

*Domestic and international polarization: twin spirals*

Polarization now involves two crosscutting international coalitions of states and civil society actors that form twin spirals of influence between domestic and international politics. While the United States is now the leading advocate of sexuality rights, polarization within the United States has promoted global polarization, partially because successive Republican and Democratic Administrations have adopted opposing approaches. For example, the George W. Bush Administration sided with Arab and African states, as well as the Vatican, in opposing any specific mention of ‘men who have sex with men’ (MSM), along with sex workers and injecting drug users, in General Assembly resolutions on HIV and AIDS (Girard 2004). The Obama Administration has loosened these restrictions and become an advocate for inclusion of ‘MSMs’ in HIV programs. Meanwhile, Russia has made good on Vladimir Putin’s October 2007 promise to retaliate against European support for pro-democracy activism in Russia, by working with states and civil society groups (often in conjunction with US evangelical groups) to organize international opposition to sexuality rights (Horvath 2014, 24; People for the American Way 2014). As both homosexual affirmation and homophobia are globalized, strange coalitions are forming between conservatives and religious fundamentalists of all kinds, and between right-wing opponents of Islam and gay rights advocates.

US-based organizations in particular have built international networks that are deeply enmeshed with both sides of the international dispute. On the sexuality rights side, US-based NGOs have worked with international partners to advance the rights agenda and under the Obama administration the State Department has been tasked with resourcing developing world LGBT NGOs. In opposition, US Evangelical groups work closely with diverse international allies. For example, ongoing legal action brought by NGO ‘Sexual Minorities Uganda’ against Scott Lively of the Abiding Truth Ministries under the United States’ Alien Torture Act is revealing the deep connections between the American evangelical movement and contemporary politicization of homophobia in Uganda (Sexual Minorities Uganda v. Scott Lively 2013).

Significantly, there are a number of states that are drawn toward both poles of the sexuality rights debate. For example, Hungary, as a member of the European Union, votes in support of sexuality rights internationally. However, close links with Russia also influence Victor Orban’s government’s domestic stance. Bans on gay pride marches, police failure to protect gay activists from violence, and symbolic legal moves against gay marriage exemplify this tension. Similarly, Japan appears torn between its liberal democratic and regional identities. Japan has broken ranks with

the Asia-Pacific group by joining the ‘LGBT Core Group’ at the United Nations voting in support of sexuality rights, but it is by no means a vocal advocate.

Debate over sexuality rights is now quite heated in a number of Asian countries, and socializing pressures are leading to gradual changes, as in Nepal, and most significantly India, where a Supreme Court decision (since overturned) struck down British era sodomy laws. Most interesting is the response in authoritarian states such as China and Vietnam, where there is increasing debate within official circles about how far to acknowledge homosexuality (United Nations in Viet Nam 2013). While a number of Asian states including Pakistan, Sri Lanka, Brunei, and Malaysia strongly resist any recognition of sexuality rights, and others, such as Indonesia and the Philippines are currently unlikely to take official positions opposed by dominant religious institutions, it is possible that some states in Asia/Pacific will ultimately accept widened conceptions of rights.

Even those states that most stridently oppose sexuality rights harbor opposing voices and impulses. For example, Asma Jahangir, the former Special Rapporteur, now runs a prominent human rights NGO in Pakistan. Pakistan’s highest court has recently ruled to recognize the status of ‘hijra’ – a third gender; this is arguably a peculiarly patriarchal accommodation of gender non-conformity (*The Guardian* 2009). Where Malawi’s criminalization of lesbian sex in 2010/2011 has been attributed to aid increasing the influence of Christian and Muslim evangelicals, the subsequent suspension (not repeal) of sodomy laws in 2012 appears to have been a response to pressure by European donors (Chanika, Lwanda, and Muula 2013).

### *Distinguishing moves: salience, out-groups, and national identity*

While advocates generally assert the universality of sexuality rights, opponents commonly frame resistance as a defense of national, religious, or regional identity against a Western imperialist agenda. In the following section, we reference a variety of studies of both the sexuality rights movement and political homophobia that examine (often using slightly different terminologies) the way in which out-group salience and collective identity has informed sexuality rights debates. It is important to note that the domestic salience of sexuality rights to collective identity varies greatly between states: whereas sexuality rights are frequently discursively linked to identity in the Netherlands and Zimbabwe and distinguish in-groups from salient out-groups (Islamic extremists/Western permissiveness), in other states (such as China, the Philippines, and Japan) sexuality rights debates appear to have little domestic salience and there is no evidence of identity-based polarization or of increasing domestic repression.

Although China generally opposes international recognition of sexuality rights, this position appears to link with its broader efforts to limit interference in the internal affairs of states.

Many scholars have argued that the terrorist attacks of 9/11 increased the salience of the Islamic world as a relevant out-group for Western nations, and that in many countries LGBT rights gained a new significance as a marker of national and Western identity (Puar 2007). This claim seems particularly persuasive in the Dutch case where debates following the assassinations of Theo Van Gough and Pym Fortuyn in 2002 crystalized support for the idea that Muslim values threatened Dutch tolerance (Van der Veer 2006; Mepschen, Duyvendak, and Tonkens 2010). Acceptance of homosexuality is now required of those seeking Dutch citizenship (Buruma 2009) and demands that migrants must accept sexual minorities have gained support elsewhere in Europe. For example, one conservative German politician railed against Muslims 'displacing our ideas about values and order' while advocating a sexuality tolerance test for migrants (Haritaworn 2010, 73). While it appears plausible that acceptance of sexuality rights has become an identity marker distinguishing in-groups from an Islamic out-group in several Western European states, this frame is less common elsewhere.

Barack Obama and Hillary Clinton have frequently linked protection of sexuality rights to the United States' national identity. However, their rhetoric only occasionally contrasts US tolerance to the intolerance of any specific out-group (most commonly Russia). Some conservative American writers do justify hostility to Islam as a defense of American tolerance toward homosexuals (e.g. Bawer 2006), but these voices remain marginal. A series of statements by President Obama have sought to directly link advancement of sexuality rights to the 'great, unfinished story' of the American Nation's fulfilment of the 'promise' that 'all people are created equal and deserve the same rights' (Barak 2010). Obama's embrace of sexuality rights has coincided with rapid domestic opinion change, which has made strong endorsement of sexuality rights electorally viable.

In the context of tensions with the Russian Federation over Edward Snowden and laws banning 'propaganda of non-traditional sexual relations to minors', Obama's public statements repeatedly emphasized an American duty to defend sexuality rights. For example, interviewed on 'The Tonight Show' he commented 'One of the things I think is very important for me to speak out on is making sure that people are treated fairly and justly because that's what we stand for' (*Huffington Post* 2013). Hillary Clinton has drawn on the same national identification with moral leadership as she has argued that extending human rights protection to 'gay, lesbian, bisexual, and transgender people' is 'one of the remaining human



rights challenges of our time' (Hillary 2011). Claims concerning the universality of American values are often poorly received. For example, when the US Embassy in Pakistan hosted an event honoring 'gays and lesbians' it was attacked from many quarters, the Lahore High Court Association branding it as 'a drone attack on culture and social life of the region' (*Pakistan Voice* 2011).

National identity claims and sexuality rights have been discursively connected in similar ways in leading states opposing sexuality rights. Many national studies of homophobia have argued that political homophobia is increasingly used as a means for constructing national collective identity against a permissive Western other. Although the local culture and political formations are different in each case, a collection edited by Michael Bosia and Weiss (2013) argues that many governments, such as those in Uganda, Egypt, and Zimbabwe, are using a common set of techniques to cast sexual minorities as a threatening 'other' and themselves as defenders of national traditions. They find that this strategy is often adopted before the formation of any significant local LGBT activism, rather than in response to it.

Many states that oppose sexuality rights are going through a process of domestic extremification where the level of repression or legal prohibitions against sexual minorities is increasing. Further, the available polling data suggests that public opinion is either stable or moving against acceptance of homosexuality in most states that oppose sexuality rights, while tolerance is increasing elsewhere (Pew Research Global Attitudes Project 2013). Some states have made moves to increase the legal penalties for homosexual acts (e.g. Brunei, Uganda, and Cameroun) or to specifically outlaw marriage and cohabitation by same-sex couples (e.g. laws proposed in Nigeria and Liberia). In the Southern African states of Zimbabwe, Namibia, Zambia, and Botswana, an upsurge in official homophobic rhetoric has been documented since the mid 1990s (Human Rights Watch 2003, 12–55) while in 2001 Mubarak's Egypt commenced a concerted campaign of victimizing homosexuals and simultaneously became a leading international opponent of sexuality rights (Human Rights Watch 2004; Long 2005, 16). Similar moves are occurring in several other Arab states (Whitaker 2012). In the election campaign of 2012 Egypt's Muslim Brotherhood portrayed itself as a defender of Egyptian values against the specter of 'gay marriage' under secular government.

Arguments over sexuality rights often draw on regional and religious as well as national identity. Religious organizations' high level of international coordination is one factor that supports polarization. OIC member states have long expressed skepticism toward universal Human Rights (as against human rights founded in the Islamic Sharia) (Bielefeldt 2000) and frequently reference the OIC's Cairo Declaration on Human Rights in Islam,

of 5 August 1990, which offers no support for the concept of sexuality rights. Although most Christian denominations are now reconciled to the universality of human rights, many resist recognition of sexual orientation. Polarization around sexuality rights might be partially explained in cultural-religious terms, as a conflict between religious relativism and humanist universalism. Yet, religious voices and strongly religious states are present on both sides of the debate and survey evidence suggests that the most rapid recent shifts in opinion toward acceptance of homosexuality have occurred in Catholic states since 1989 (Hadler 2012).

Attempts by some Asian leaders in the 1990s, led by Singapore and Malaysia, to position homosexuality and Western conceptions of civil and political rights in opposition to 'Asian values' are another antecedent of contemporary polarization over sexuality rights. Speaking at the 1993 World Conference on Human Rights in Vienna, Singapore's foreign minister proclaimed that: 'Homosexual rights are a western issue and are not relevant to this conference (Altman 2000, 211–28)'. Today, Russia's campaign to ground all human rights in 'universal traditional values' involves an explicit rejection of sexuality rights and invites international allies to use the issue to distinguish themselves from the West.

Russia's contemporary stance also derives from domestic battles between liberals and nationalists in the 1990s. Robert Horvath (2014) has traced how a civilizational critique of human rights developed by the nationalist historian Nataliya Narochnitskaya, has been successively used to marginalize Putin's domestic liberal opponents, to consolidate the Orthodox Church's support for Kremlin, to blunt the domestic impact of Western critiques of Putin's human rights record, and as an instrument of Russian soft power internationally, working with a coalition of third world and authoritarian states. While President Putin rarely directly links anti-gay laws with Russian national identity, he makes continual reference to the role of Orthodox values in binding the Russian nation and Slavic peoples (Putin 2013). Since rejection of homosexuality is understood as a central element of Orthodox values, Putin's language indirectly connects international debate over sexuality rights with both regional and national identity.

## Conclusions

The early constructivist literature's emphasis on norms as agents of international homogenization has begun to be corrected by accounts that emphasize norms' role in creating international hierarchy and regional identity. We have built on this work by drawing attention to cases where a

candidate norm cascades among some states but is rejected by others, so that rival socializing pressures within two groups of states create international polarization. Further, we have outlined the ways in which the ‘spiral model’ of connections between domestic actors and international politics can operate simultaneously within opposing coalitions. We highlight whaling and sexual orientation as two long-running instances of international polarization and have pointed to a variety of other cases.

We have also outlined the potential relevance of group-psychological polarization as a reductionist factor that might support national divergence in respect of contested international norms. Here we suggest that SIT describes psychological microfoundations that might potentially make domestic divergence and international polarization politically viable. While we have pointed to some evidence that is compatible with SIT’s account of a connection between identity and polarization, we have not demonstrated SIT’s causal role and it is clear that SIT does not describe the only ways in which group dynamics might influence national reception of norms.

However, if group-psychological factors do contribute to polarization, this suggests that resolution of disputes might be assisted by strategies that lower the salience of identity conflict, possibly through emphasis of alternative aspects of identity (Block and Siegel 2011). Sensitivity to identity issues is already part of the tool-kit of state diplomacy, as is evidenced by the importance backers of Resolution 17/19 placed in having South Africa present the final text. SIT’s account of polarization also supports the claims of some developing world activists that clumsy western interventions supporting sexuality rights can be counterproductive (Rao 2010, 173–95).

The association of homosexuality with western cultural imperialism works against acceptance of sexuality rights in many developing states. Since this association is of strategic value to sexuality rights’ opponents they constantly reinforce it. While it is true that the globalization of distinct ‘gay’ identities is a form of westernization, ‘traditionalist’ arguments are also often nurtured by western allies. Fundamentalist traditionalism is itself a product of globalization, Putin’s opposition to sexual rights is framed as a defense of ‘universal’ traditional values, and domestic polarization over sexual orientation and aggressive persecution of sexual minorities are only recent innovations. Disputes over sexual orientation and human rights arise in a context where human rights are invoked by third world governments to limit external interference (e.g. against loan conditionality and pharmaceutical patent restrictions), and by developed states in defense of specific interventions. In this context we might conceptualize debates over rights and sexual orientation less as conflicts between western universalism and local traditions, than as a struggle over the character of international society and its obligations.

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