Same-sex marriage in Belgium, France and Spain:
The crucial influence of transnational networks on convergence at the level of social movements

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Abstract

Gay and lesbian issues have become central in contemporary politics. LGBT groups have emerged worldwide and LGBT concerns are gaining access to international institutions. Similar claims are also adopted by national LGBT movements, among which same-sex marriage. Although it is only allowed in seven countries and some US States, this demand has been put forward by social movements in more countries and is currently being discussed in various Parliaments. Therefore, it can be regarded as a case of convergence, although at the level of social movements. This paper aims at explaining the convergence mechanisms between Belgium, France and Spain, which belong to the first countries where gay and lesbian groups claimed same-sex marriage. Three mechanisms have played an important part. The most important one refers to networking and transnational exchanges of ideas and strategies through three specific networks: an INGO network structured by the International Lesbian and Gay Association, a European network of socialist LGBTs, and an epistemic community of legal experts. Secondly, a few cases of cross-national diffusion have also been traced back. Thirdly, some shared domestic characteristics, such as AIDS or the heritage of the Napoleonic Civil Code, need to be taken into account. Unlike other cases of convergence, however, the development of same-sex marriage claims in Belgium, France and Spain cannot be regarded as an example of Europeanization or as the result of international norms. This research highlights some of the effects of globalization on the agenda of social movements, and the crucial influence of transnational networks on politics today.

1 A first version of this paper has been presented at the First European Conference on Politics and Gender (ECPR) at Queen's University (Belfast) in January 2009. It is based on my PhD dissertation (Paternotte 2008a).
Introduction

In recent years, same-sex marriage has become a contested issue all over the world. Until now, only seven States (the Netherlands, Belgium, Spain, Canada, South Africa, Norway and Sweden) and several US States have allowed gay and lesbian couples to marry. However, this topic has been discussed in more countries, either as a right claimed by social movements and, sometimes, a bill debated in Parliament (e.g. in the US, France, Portugal, Sweden, Argentina or Chile), or as a reaction to foreign news, especially from Spain and/or the United States (in Latin America, and Africa among others). More broadly, same-sex couples now enjoy some kind of legal recognition in many (mostly Western) countries, and it is being debated elsewhere. In other words, the debate on same-sex couples’ legal recognition exceeds national borders, and its understanding requires abandoning a sometimes too narrow national focus to engage with comparative and, more importantly, international and transnational studies.

This trend towards the legal recognition of same-sex couples in Europe and beyond can be regarded as one of the multiple signs of what Dennis Altman has called “global sex” (2001). It can be defined as an example of convergence in both national debates and, sometimes, national policies. Indeed, similarities in the arguments put forward by defenders of same-sex marriage, and even in the timing of mobilisation, are remarkable. According to Knill, the notion of policy convergence “can be defined as any increase in the similarity between one or more characteristics of a certain policy (e.g. policy objectives, policy instruments, policy settings) across a given set of political jurisdictions (supranational institutions, states, regions, local authorities) over a given period of time” (Knill 2005: 768). It results from a process of becoming alike. This specific process of convergence is even more astounding because, while heterosexual marriage was long considered to be a cornerstone of patriarchy, change has been quick. Therefore, it raises many questions, among which why and how this claim has spread up so rapidly. In my opinion, answering this question implies looking beyond national politics. Indeed, convergences cannot be understood without taking into account what happens beyond the State, even though this assumption is seldom applied to the issue of same-sex couples’ legal recognition.

Answers generally refer to deep and long-term transformations of Western societies, processes such as secularisation, individualisation, democratisation of marriage and the family. If they are undoubtedly true, such explanations stay at a macro level. They often
display a teleological perspective, according to which civil partnerships, and later same-sex marriage, had to be introduced. Furthermore, as these changes are generally shared by, at least, Western countries, they do not allow to understand why, for instance, Denmark was the first country to introduce a civil partnership in 1989, or why some have privileged marriage over civil partnership. Consequently, another level of analysis is required, which examines the micropolitics of same-sex marriage, and brings actors back into the picture. While not dismissing the former kind of explanations, it offers deeper insight into the factors and the causes underlying the convergence process pointed out before.

Relying on my PhD dissertation (Paternotte 2008a), this paper focuses on three countries: Belgium, France and Spain. Indeed, if same-sex couples are only allowed to marry in Belgium (2003) and Spain (2005), it has been demanded in the three countries since 1996 – 1997. In addition, gay and lesbian associations in Belgium, France and Spain have used similar arguments, and the claiming process has followed a similar path (for a comparison of the claiming process, see Paternotte 2008b). At the same time, these countries display distinct political systems and political histories, as well as different LGBT pasts. Therefore, we need to understand how claims to same-sex couples’ legal recognition have progressively become more similar. This research is based on a complex comparative design which combines the most different systems design (Prezworski and Theune 1982) with a transnational comparison (Hassenteufel 2005). Fieldwork combines archives, semi-directed interviews and observation. Using literatures on policy convergence, social movements and policy studies, this paper will also discuss Kelly Kollman’s articles on same-sex unions (2007 and 2009), as they are maybe the only pieces of research examining same-sex unions politics from a convergence perspective. It is aimed at identifying key factors explaining the convergences pointed out below.

Kelly Kollman’s argument about same-sex union laws and policy convergences

In two groundbreaking articles (Kollman 2007 and 2009), Kelly Kollman presents the wave of adoption of same-sex union laws in Western countries as an “startling” and “astounding” example of policy convergence (Kollman 2009: 1 and 5). According to her, this phenomenon results from the globalization of the idea that same-sex couples deserve a legal status, which is considered as a fundamental right that cannot be rejected by a state without being seen as discriminatory. She argues that this idea has become an international norm, and shows that
“much of the debate in western democracies has been shaped by common international/transnational influences” (Kollman 2007: 331). Therefore, she takes research on same-sex union laws back from the realm of national monographs, and applies some international relations tools.

In “Same-Sex Unions: The Globalization of An Idea”, Kelly Kollman tries to explain this convergence process in Europe and North America. Using the notion of transnational advocacy network (Keck and Sikkink 1998) and the constructivist approach of international norms (discussing Risse and Sikkink’s “spiral model”; Risse and Sikkink 1999), she describes the mobilisation of two transnational networks: the first one consisting of activists working on LGBT human rights, and the other gathering committed policy elites. The transnational network of activists would have helped national LGBT groups to set the issue of same-sex union laws on the agenda, enhanced the legitimacy of these claims, and demanded the harmonisation of national laws within international institutions. The elite network, strongly developed within the EU and the Council of Europe, would have influenced national elites through European Parliament resolutions and rulings of European courts, and disseminated the idea that same-sex unions deserve legal recognition, altering national debates. In other words, these two networks would have contributed to convergence through three processes: agenda setting, elite social learning and direct pressures to harmonise national policies.

In “European Institutions, Transnational Networks and National Same-Sex Union Policy: When Soft Law Hits Harder”, Kelly Kollman focuses on the European context, which is studied on the basis of the German and Austrian cases. She examines the adoption of same-sex union laws through the concept of Europeanisation, but her approach reminds her former constructivist argument about international norms and the transformation of states’ behaviour. Unlike most of the literature, she considers Europeanisation as the process of norm construction by European actors. In this perspective, developments at the European level (actions by the EU, the Council of Europe and a transnational advocacy network) would have led to the emergence of a regional soft law norm, which urges national policy makers to adopt some kind of same-sex union law. In this context, the differences between national situations would be again explained by the distinct legitimacy of this norm in each national context.

2 In the second part of this article, Kelly Kollman explains the adoption of different statuses by the legitimacy of international norms in every national context. According to her, it influences the impact of transnational networks in domestic politics. She also takes into account the nature of national religious values and practices. The latter would influence both whether same-sex couples will be granted a legal status, and the form given to it.
Furthermore, given that Austria was condemned by the European Court of Human Rights in 2003 (Karner vs. Austria), a judgment considered as a hard law norm, Kelly Kollman concludes that “Europe has had a far greater impact on national policy outcomes when its influence has been felt through the informal processes of norm diffusion and elite socialization than when it has tried to impose formal mandates through court decisions and EU directives” (Kollman 2009: 1). Again, Kelly Kollman explains policy convergences by socialisation and learning processes, that is to say processes of norm construction. Key actors are international institutions, policy elite transnational networks and transnational advocacy networks.

**Studying convergences at the level of social movements**

My own work differs from Kollman’s one on three important aspects. Firstly, I do not study convergences at the level of policies. Indeed, I do not attempt to explain why most (European) countries have adopted some kind of legal status for same-sex couples. Rather, I endeavour to explain why and how LGBT movements in Belgium, France, and Spain have decided to advocate same-sex marriage in the mid-nineties. Therefore, I do not pay direct attention to policymakers, unless they have been key actors in the emergence of the claim for same-sex marriage. Similarly, the argument about international norms has to be adapted to social movements.

Secondly, I focus on the opening-up of civil marriage, differentiating it from other kinds of legal recognition of same-sex couples. This option reflects discussions among activists in Belgium, France and Spain in the nineties, when some decided to ask for marriage instead of a kind a civil partnership, even open to both same-sex and different-sex couples. According to them, such a choice would make a huge difference, as the opening-up of same-sex marriage was the only way to achieve full equality and to acquire a better citizenship. Besides, its impact on patriarchy and heteronormativity was deemed to be more important. Historically, this claim appeared in 1996 and 1997 in Belgium, France and Spain, after a first period during which a civil partnership open to both same-sex and different-sex couples had been advocated. It emerged at another moment in other countries, for instance sooner in the Netherlands, and has not always been given the same priority. Unlike Kelly Kollman’s research and probably because it was less salient in the cases she has studied, this distinction structures my own work. As this claim seems to imply a more radical rupture with former
stances than civil partnership, I have tried to trace back its emergence and development in social movements’ discourses and strategies.

Thirdly, at a theoretical level, the IR constructivist literature about international norms has not been as decisive to my work as it is to Kelly Kollman’s one. I do not consider international norms as the main convergence factor, but rather as a potential one among a range of possible causes. My own research relies more on works about policy convergences, mainly on Collin Bennett’s seminal article of 1991. In this text, this author identifies four factors of policy convergence: emulation, elite networking, harmonisation through international regimes and penetration by foreign actors and interests. Since then, causes of policy convergences have been regularly discussed, and new factors have been proposed, among which similar but independent answers to similar pressures (Knill 2005). After a review of the literature on causes of convergence, its confrontation to the poor literature on convergences dealing with LGBT topics (mainly Kollman’s work), and a comparison to parity laws in Belgium, France and Spain (another issue debated at the same time and for which influences from abroad are better known), five factors have been investigated: the influence of common characteristics and events, diffusion and transfer, networking, Europeanisation and international norms. These factors are not exclusive from each other, as, for instance, norms may have been created by transnational networks, as argued in Kelly Kollman’s research. They have been treated separately for practical reasons, and field research reveals than only the first three explain convergences among claims made in Belgium, in France, and in Spain.

**The crucial impact of transnational networks**

The first factor refers to common characteristics and events in these three countries, which would have led social movements to independently take similar decisions. Consequently, in this case, convergences do not imply any kind of contact, even indirect, between actors from different countries. However, as these factors are often not specific to Belgium, France and Spain, they do not explain, at least individually, why LGTB movements in these countries have chosen to advocate same-sex marriage, but rather contextualise the emergence of this claim. Three elements must be mentioned. First, the AIDS epidemic has unveiled the precariousness of same-sex couples’ legal and social situation, contributing to the development of claims regarding their legal status (Roca i Escoda 2005). However, this factor was not specific to Belgium, France and Spain. More interestingly, first claims to same-sex
marriage appeared in these three countries in 1996 – 1997, that is to say at the same time tritherapies were introduced. For this reason, we may think that it is because these treatments have freed LGBT groups from the urgency which first characterised AIDS that other logics about same-sex couples’ legal recognition have been able to flourish, especially those based on legal equality (which were deemed to need more time to be achieved). This hypothesis is strengthened by the fact that AIDS groups such as AIDES and Act Up Paris have been key actors in the struggle for same-sex marriage in France, and that LGBT groups in favour of same-sex marriage have generally been strongly involved in the fight against AIDS before asking for same-sex marriage, particularly in Catalonia. Secondly, Belgium, France and Spain share a common legal tradition, based on the Napoleonic civil Code, of which marriage and the legal organisation of kinship (filiation) are considered as cornerstones. Therefore, they could probably not be avoided once equality had been defined in legal terms. Thirdly, even though group-differentiated rights exist in each of these countries (particularly in Belgium), Belgium, France and Spain share a rather universalistic tradition of citizenship, certainly when it comes to gender and sexuality. Consequently, differentiated rights such as German, British or Scandinavian partnerships could not be judged as really and fully equal, and legal equality necessarily implied opening up the same rights to everyone.

Secondly, some cases of diffusion (McAdam and Rucht 1993; Strang and Soule 1998) or transfer (Evans and Davies 1999; Dolowitz and Marsh 1996; Dolowitz and Marsh 2000) have been observed. They refer to punctual exchanges and contacts among domestic actors or with a common third country, leading to the adoption of foreign strategies, goals, etc. Such contacts may be direct and personal or indirect and without any personal contact (through newspapers, internet, etc.). I have used Snow and Benford’s typology to study these cases of diffusion (1999). On this basis, only examples of reciprocation and adaptation have been observed. Reciprocation refers to diffusion processes where both transmitters and adopters are involved. For this reason, they are generally based on personal relations and contacts between actors. Adaptation describes cases where only adopters are actively involved. They often rely on indirect contacts (through the media, etc.).

Nevertheless, cases of diffusion do not appear to be crucial here. Indeed, empirical findings reveal that the claim to same-sex marriage has developed simultaneously in Belgium, France

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3 Diffusion is more used in social movement literature, while transfer is more common in policy analysis.
and Spain. But diffusion implies the anteriority of transmitters over adopters (Mc Adam and Rucht 1993: 66). Besides, Belgian, French and Spanish gay and lesbian movements were among the first to ask for same-sex marriage. Consequently, it is hard to find any common model, at least concerning this specific claim. Even the Dutch case, which could have strongly influenced some of their arguments and their strategies, appears marginally. Most cases concern the period from the end of the eighties until 1996 – 1997, that is to say before the decision to advocate same-sex marriage.

Some examples of reciprocation are found, for instance, between Belgian and French associations or Dutch and Flemish groups in the early nineties, which have punctually sent policy documents and parliamentary texts to each other. In both cases, they came after indirect forms of diffusion, through which activists had learned about foreign developments in newspapers, etc. I have come across more cases of diffusion by adaptation. Claims about same-sex couples have been encouraged by the adoption of the first civil partnership in Denmark in 1989, especially in Belgium where they were helpful to launch the first debates within gay and lesbian associations. In this country, French debates about the CUC have also been crucial, and have influenced the contents of the first demands. Similarly, Spanish debates, particularly since José Luis Rodríguez Zapatero’s electoral victory in 2004, and the announcement by San Francisco Mayor of his decision to celebrate same-sex marriage in February 2004, have profoundly influenced French actors, urging defenders of same-sex marriage to launch new actions and convincing other associative and political actors and politicians to endorse this claim.

These exchanges and influences must be distinguished from a third factor of convergence, networking, which relies on sustained and frequent contacts among actors. Within these networks, actors do not only exchange ideas and strategies, but also elaborate them altogether. As a result, “convergence results from the existence of shared ideas amongst a relatively coherent and enduring network of elites engaging in regular interactions at the transnational level” (Bennett 1991: 224). It implies that these groups do not only encourage diffusion and exchange of some ideas and practices, a situation in which they operate as a bridge between different countries, but that they also constitute laboratories where new ideas and strategies may emerge and can be discussed before being used in national arenas. It shows that networks are not only key sites of diffusion processes or norm construction, such as in Kelly Kollman’s development at political level, which will not be presented here. See Paternotte 2008a: 175.
work, but that networking itself may function as a powerful factor of convergence. In my research, it does even constitute the main one.

Empirical research has revealed the existence of a transnational (mainly European) network of actors in favour of same-sex marriage, which gathers activists, academics and policymakers. Its members generally speak many languages, are familiar to new technologies, and travel regularly. They have played an important part in imagining new claims and new arguments, especially about the relationship between equality, discrimination and the right to marry. This discourse has served as a new grammar for LGBT struggles, which has been applied, for instance, to the issue of same-sex union laws, leading actors to privilege the opening-up of civil marriage. This transnational network has also been used to discuss strategies across national borders. As some of its members are well connected to national and sometimes regional networks, these levels were linked to each other, a situation allowing transnational and multilevel communication. This network also includes people from other countries than Belgium, France and Spain, broadening the scope of potential influences and contacts.

This network could have been depicted as a transnational advocacy network (Keck and Sikkink 1998), as it relies on transfers of information and because its members share common values, which partly explains their involvement. Besides, Keck and Sikkink consider equality opportunities struggles as primary fields for such networks (1998: 27). However, I use another concept to examine its functioning and its influence: the velvet triangle (Woodward 2000 and 2004). The concept describes a policy network composed of three kinds of actors: activists, policymakers and academics. It contributes to the elaboration of policy ideas and sometimes policies as well, and functions on the basis of personal ties, as “friends in mutually safe and acknowledged associations solicit ideas for investigations, strategies, and policy measures” (Woodward 2004: 85). Unlike the notion of transnational advocacy network, this concept does not only consider principled but also causal motivations to collective action. Besides, it insists on the specific kind of actors who participate into this network, and the kind of relationships they establish among them. Indeed, research shows that personal and informal interactions are central in the convergence process between Belgian, Spanish and French LGBT groups. Finally, it unveils the porosity between political, activist and academic spheres, as well as the multipositionnality of some actors, who may simultaneously or through time belong to more than one of this sphere. This is really important to understand how some actors know each other, and how ideas circulate.
This transnational network is not only connected to national or subnational networks, but it is also articulated to more specific and non exclusive ones, corresponding to each side of the triangle: activists, policymakers and politicians, academics. The transnational network of activists corresponds to the International Lesbian and Gay Association (ILGA) and, more importantly, ILGA-Europe, its European section. However, if these organisations have been really active on issues such as antidiscrimination law or the decriminalisation of homosexual acts in Eastern Europe, they have not been working on same-sex union laws until recently, because this topic was not considered as a priority. Besides, most Belgian, French and Spanish champions of the opening-up of same-sex marriage were, at least at that time, not active within this organisation. Therefore, the contribution of ILGA and ILGA-Europe to convergences between Belgium, France and Spain was marginal, mostly through the creation of a transnational space of discussion and meeting. Political networks have long been informal, and they have not been decisive. Recently, some contacts between Belgian and Spanish socialists on one hand, and French ones on the other have helped to convince the latter to back claims for same-sex marriage. Finally, the most crucial network gathers lawyers and legal scientists from many European countries. By elaborating a scientific discourse about equality and non discrimination, which has strongly influenced national demands, this network has worked as an epistemic community (Haas 1992), a concept seldom applied to equality issues. European programs and initiatives, such as the European Group of Experts on Combating Sexual Discrimination (EGESO), helped them to structure this network on a more formal basis. Some of its members are also key national actors, such as the Dutch Kees Waaldijk or the French-Argentinean Daniel Borillo. The latter appears as the main link between Belgium, France and Spain. He is one of the most active defenders of same-sex marriage in France. Simultaneously, he has also advised the Spanish gay and lesbian federation for years, and he is a personal friend of several of its leaders. He has also met some Belgian actors, and his writings have been widely discussed in this country.

**Europeanisation and international norms: Back to Kelly Kollman’s argument**

Despite their centrality in Kelly Kollman’s argument, the two remaining factors do not appear to be essential to explain claim convergences, at least in Belgium, France and Spain. To remind, as I do not examine policy outcomes but the emergence of claims, these two factors can not been exactly studied as Kelly Kollman did in her own work. Indeed, I investigate
whether they have influenced social movements, not policy makers. Nonetheless, both norms and Europeanisation are often included into convergence factors, and, providing some adjustments, Kelly Kollman’s insights can and must be discussed.

On the one hand, if European institutions have been promoting gay and lesbian rights for more than twenty years, they have hardly been active on same-sex union laws and marriage, which still belong to national law (Bonini Baraldi and Paradis forthcoming). Besides, none of the three countries studied has been condemned by the European court in a case about same-sex couples, unlike Austria, Germany or the United Kingdom. Therefore, it is not easy to consider this convergence process as a consequence of Europeanisation, at least as it has been generally defined. Indeed, unlike Kelly Kollman, who considers Europeanisation as the process of construction of regional norms, most of the literature defines it as the domestic influences of decisions, discussions, norms, policies, etc. at European level (Adshead 2002; Featherstone 2003). But, like Kelly Kollman, I have included the Council of Europe and European courts to be able to discuss her research.

I have more precisely used Knill and Lehmkuhl’s model (2002) in my own research. Following these authors, Europeanisation may happen through three mechanisms: institutional compliance when the European institutions force or strongly encourage States to adopt measures, a transformation of domestic structures of opportunities (power relationships and share of resources) because of European actions, and a reframing of domestic actors’ beliefs and expectations, which alters their strategies. Empirical research shows that the latter is the only mechanism which has (marginally) played a part. Indeed, given the absence of a European policy concerning same-sex unions and the fact that this claim has been first developed at national level, we cannot speak of institutional compliance. Besides, it would be bold to argue that the few standpoints of the European Parliament, mostly the 1994 Roth Report, have transformed national structures of opportunities and power relationships. But these documents have probably contributed to change national preferences and beliefs, altering the content and the timing of the debates. If they have legitimised national actors in each country, their influence has probably been more important in Spain, where Europe was regarded as a positive model. Indeed, activists noted a change in state behaviour since 1994, particularly in the incumbent socialist party. Furthermore, the promotion of equal opportunities by the European institutions, especially since the Treaty of Amsterdam (1997) and the Employment Equality Directive (2000), have promoted a specific definition of
equality within the Member States, and a kind of legal reasoning which has probably influenced the way LGBT claims are imagined and framed.

On the other hand, it seems too early to consider the existence of an international norm, at least concerning same-sex marriage and even at the level of social movements. As I have explained below, unlike Kelly Kollman and most of the literature, I do not study the effects on States, but on social movements. Hence, they should have incited them to advocate same-sex marriage rather than another kind of legal recognition for same-sex couples. But, as I have just mentioned about diffusion, Belgian, French and Spanish activists have been among the first to ask for same-sex marriage. Therefore, it is probably too early to ask such a question, as international norms need time to emerge (Finnemore and Sikkink 1998). It is probably wiser to ask the reverse question: whether the Belgian, French and Spanish movements, helped by the decisions of the Belgian parliament in 2003 and the Spanish one in 2005, do not rather contribute to the construction of a new norm, which would privilege same-sex marriage over other forms of legal recognition. It is too early to answer, but we can at least point out some possible clues. If the Belgian decision has not been widely discussed abroad and the Dutch one was often regarded as another proof of Dutch license, Spanish debates have been widely discussed. Not only in France, but also in Sweden, Portugal and Italy, as well as in Latin America, where some LGBT groups are now advocating same-sex marriage and the topic is even debated by political actors. Similarly, if Canadian debates have not been really influential abroad (except, maybe, in the United States), US ones, especially in California, have been given worldwide resonance, it is shown, for instance, by the discussion of marriage bans in Latvia and some African countries.

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