UNIVERSITY OF TARTU
Faculty of Social Sciences and Education
Institute of Government and Politics

Carina Paju

Key Factors of Liberalisation of Society Based on LGBT Rights to Registered Partnership. Case-study: 5 Nordic Countries

Bachelor Thesis

Supervisor: Heiko Pääbo, PhD

Tartu 2014

Olen koostanud töö iseseisvalt. Kõik töö koostamisel kasutatud teiste autorite tööd, põhimõttelised seisukohad, kirjandusallikatest ja mujalt pärinevad andmed on viidatud.

Olen nõus oma töö avaldamisega Tartu Ülikooli digitaalarhiivis DSpace.

……..

/töö autori nimi/

Index

Introduction

In 1948, the Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly[1], showing the rising need of the international community for firm recognition of fundamental and inalienable rights upon every human being, guaranteeing the right to life, liberty and freedom from persecution. It lists race, sex, religion and political opinion as categories for discrimination but is meant to provide protection and rights to all who experience persecution and recognises the change of intolerance and discrimination, especially after the horrors of World War II[2]. In 2011, the Human Rights Council passed Resolution 17/19 which also incorporated gender and sexual identity as priorities under the Universal Declaration of Human Rights.[3] Other important treaties include the Charter of Fundamental Rights of the European Union (2000) and the Amsterdam Treaty (1999) that both, amongst other things, prohibit discrimination based on sexual orientation[4]. These documents do not only protect the minorities but also call for actual integration of heterogenous groups, increasing the will to mutual acceptance and recognition.[5]

This research is built on finding out the factors how this kind of profound changes in accepting LGBT community (lesbian, gay, bisexual, transgender) have occurred in societies. In most European countries, homosexuality was criminalised even 80 years ago. By 2014, 43 have anti-discrimination laws for sexual orientation, 22 countries allow civil union between same-sex couples, out of whom 10 countries have legalised same-sex marriage. In order to understand how these changes have occurred and what societal processes were necessary, we will construct a web of factors, by analysing the discourse of tolerance, sexuality, modernisation and changes in society that have influences the legitimation of LGBT rights.

---

[1] Universal Declaration of Human Rights. The United Nations, 1948. Permant link: http://www.un.org/en/documents/udhr/, last visited 19.05.2014

[2] Madson, Nathan; Odegard, Jenny "Cause of Action: Using International Human Rights Law to Advance Gay Rights" *National Lawyers Guild Review.* Summer 2013, Vol. 70 Issue 2, p 66

[3] Madson & Odegard 2013: p 67

[4] The Charter of Fundamental Rights of the European Union, 2000. Permanent link: http://www.europarl.europa.eu/charter/pdf/text_en.pdf

[5]Zick, Andreas; Küpper, Beate; Hovermann, Andreas "Intolerance, Prejudice and Discrimination: A European Report" Friedrich-Ebert-Buchdruckerei, 2011, p 9

My input to this topic is different as mostly it is approached from a very narrow perspective: either it is looked through individual's perspective (tolerance as a characteristics) or from the international point (organisations and international law) on the theoretical level, or some historical generalisations are made. Authors have concluded many times throughout our sources that there is not one single theory that could explain the process of legitimation of LGBT rights to registered partnership[6]. What I will try to construct through this text, is a more theoretical model that consists of prerequisites that are not under state's control (societal developments) and of factors that can be influenced on national level (controllable goals as social justice, modernisation, human rights' importance, pluralism) and the hypothesis is that these factors, with whatever ratio between them (depending on the case), explain why and how LGBT rights for registered partnership was legalised.

In the empirical part, we test this hypothesis with the example of five Nordic countries who were amongst the first to recognise registered partnership in Europe: Denmark, Sweden, Norway, Iceland and Finland (excluding Faroe Islands and Greenland). We choose them because they are culturally and politically relatively close and can be grouped as one region. The period under observation therefore is until 2002 when Finland adopted registered partnership laws for same-sex couples as the last one of 5. Through that, we explore which of the factors discussed in the theoretical part were necessary in the Scandinavian model and how they helped to pass these laws.

[6] Glass, Christy M.; Kubasek, Nancy; Kiester, Elizabeth "Toward A 'European Model' of Same-Sex Marriage Rights: A Viable Pathway for the U.S.?" *Berkeley Journal of International Law.* 2011, Vol. 29 Issue 1, p 165

1. Theory: Defining the Factors in Society that Lead to LGBT Rights to Registered Partnership Legal Recognition

1.1 Defining tolerance and the change of its discourse

Tolerance is defined in multiple ways, such as "the ability to accept the values and beliefs of others"[7] or as respect towards others that prohibits discrimination but does not demand understanding or accepting their point of view[8]. Many pose a question as to how it is possible to tolerate homosexuality and abortion if the person authentically believes them to be wrong. In order to explain tolerance in society and understand the basis of discussion around accepting and legitimising LGBT rights for registered partnership and marriage, we first follow the change of tolerance's discourse in Western societies.

Von Bergens, Stubblefield and Bandow distinguish three kinds of tolerances that have occurred throughout history[9]. First, tolerance was viewed as something negative, corruptive to society (St. Augustine and St. Thomas Aquinas[10]): it tells to tolerate even if one does not believe in it or does not agree, to endure and ignore it without making an argument, to live and let live[11]. This classical tolerance is a recognition of difference of which Voltaire has said: "I detest what you write but I would give my life to make it possible for you to continue to write"[12]. At the same time, there were some prerequisites to it, e.g. if a person did not believe in God, one was automatically excluded of this spectrum[13].

Second, neo-classical tolerance makes a shift to acceptance but in a different way: to say that something is distasteful is intolerant and insensitive, so every non-traditional value claim and personal practice should be made morally legitimate, and all beliefs

---

[7] Lickona, T,, "Making sense of tolerance and diversity" *The Fourth and Fifth Rs*, 2002, 8, 1-3

[8] Von Bergen, C.W.: Von Bergen, Beth A.; Stubblefield, Claire; Bandow, Diane "Authentic Tolerance: Between Forbearance and Acceptance" *Journal of Cultural Diversity.* Winter 2012, Vol. 19 Issue 4, p 116

[9] Von Bergen; Von Bergen; Stubblefield; Bandow 2012: 111-117

[10] Von Bergen; Von Bergen; Stubblefield; Bandow 2012: 111

[11] Von Bergen; Von Bergen; Stubblefield; Bandow 2012: 112

[12] Guterman, N. "A book of French quotations, with English translations" (A line in a February 6,1770 letter from Voltaire to M. le Riche) Garden City, N.Y.: Doubleday, 1963

[13]Gray, John "Pluralism and Toleration in Contemporary Political Philosophy" *Political Studies.* 2000 Special Issue, Vol. 48 Issue 2, p 326

accepted, equal with each other. Citizens are asked to be open-minded and emphatic to every difference. This approach nevertheless seems not to be equalising all views but spreading indifference: not one view, value or opinion is better than the other, instead everything should be accepted[14].

The last, and recently the most accepted discourse of tolerance by authors and states on national and international level is the one of authentic tolerance. It is "treating people with civility, dignity, respect" even if there is a chance of conflict or tension; even if people hold beliefs that others might dislike or are offensive, their human dignity is not connected to their beliefs and they deserve basic respect as human beings[15]. One should "never damn their total selves"[16]. It is not a way of acceptance but discussion that is probably the hardest to achieve: it takes an authentic concern, open-mindedness and wish to understand the other person. Dialogue is supposed to enrich the participants, to challenge and understand other points of view, to actively question their own belief systems, explore these limits and to really understand others' identity and commitments. The point on individual and societal level is seeking to understand first, not to be understood[17] as everyone has a right to exist, individuals should be inclusive of others and learn from them but it does not mean that they need to incorporate others' beliefs and behaviours[18].

If tolerance is a national and international goal, anything that works against it, needs to be studied, worked against or eliminated. Many studies[19] indicate to the fact that individually the level of tolerance is positively correlated with the level of education and income, whereas the latter is greatly influenced by the former. On a larger scale, the level of state's economy on the other hand is quite irrelevant in this process. So educating its people is a very useful tool for a state to enhance tolerance.

---

[14] Von Bergen; Von Bergen; Stubblefield; Bandow 2012: 113

[15] Von Bergen; Von Bergen; Stubblefield; Bandow 2012: 114

[16]Ellis, A. "The Road to Tolerance: the Philosophy of Rational Behaviour Therapy." Amherst, NY: Prometheus Books, 2004, p 212

[17] Covey, Stephen R. "The 7 Habits of Highly Effective People" New York: Free Press, 2004

[18] Von Bergen; Von Bergen; Stubblefield; Bandow 2012: 114

[19] Zick; Küpper, Hovermann 2011, 14, 84-85,154; Rațulea, Gabriela "Minorities Protection, Democracy and Cultural Pluralism" *Bulletin of the Transilvania University of Brasov. Series VII: Social Sciences. Law.* 2009, Vol. 1 Issue 51, p 42-51

Opposed factors to tolerance are prejudices, ideological factors such as authoritarianism, perceived threat by out-groups, Social Dominance Orientation and sometimes also religiosity[20].

Prejudices are unified, stable and consistent tendency[21] to respond in a negative way toward members of a particular group, ethnic or other[22], creating social norms of what is acceptable and what is not[23]. It is also said to be (un)learnable, even if these attitudes are deep-seated[24]. They are created by first, categorisation (in- or out-group), second by stereotyping and generalisation, and lastly by a negative or positive judgment[25]. Prejudices' function is to legitimise any inequalities in society as it is easier to live with them if prejudices justify it.[26] The lower the respondent's income, the more likely they are to express prejudices[27]. Nevertheless, not having prejudices does not mean there is tolerance, but prejudices do encourage intolerance, bringing about hate-crime, direct or structural discrimination and harassment[28].

Authoritarianism espouses law, order and discipline, Social Dominance Orientation advocates social status hierarchies and rejection of diversity, of cultural, ethnic and religious diversity within a country[29]. Mostly this is perceived as symbolic threat from out-groups and covered in ideological, usually right-wing politics of inequality that stresses one group's superiority over the others, nationalism, social Darwinism, totalitarian norms, in-group homogeneity and rejects representative democracy[30]. The

[20] Zick; Küpper; Hovermann 2011, 146

[21] Butrus, Ninawa; Witenberg, Rivka T. "Some Personality Predictors of Tolerance to Human Diversity: The Roles of Openness, Agreeableness, and Empathy" Australian Psychologist. Aug 2013, Vol. 48 Issue 4, p 290-298

[22] Aboud, F. E. "Children and Prejudice" Oxford: Basil Blackwell, 1988, p 6

[23] Zick; Küpper; Hovermann 2011: 34-35

[24]Zick; Küpper; Hovermann 2011: 28

[25] Zick; Küpper; Hovermann 2011: 28

[26] Zick; Küpper; Hovermann 2011: 129

[27] Zick; Küpper; Hovermann 2011: 154

[28] Zick; Küpper; Hovermann 2011: 34

[29] Zick; Küpper; Hovermann 2011: 84-85

[30] Hentges, G., Meyer, M. "Right-wing Extremist Attitudes in Germany: Implications of Neoliberalism and Competitive Nationalism: A Report from the Project "Socio-Economic Change, Individual Reactions, and the Appeal of the Extreme Right", Cologne: SIREN, 2003; de Weerdt, Y.; de Witte, H.; Castellani, P.; Milesi, P. "Turning Right? Socio-economic Change and the Receptiveness of European Workers to the Extreme Right. Vienna: SIREN, 2004

core elements are always stupidity, laziness, indolence, uncleanliness, physical weakness, psychological instability, criminality, slyness, deviousness; also one group member is responsible for deeds committed by other members of the group[31]. These beliefs are deeply seated in historical memory which is why they are hard to be eliminated. Modern prejudices are expressed politely, e.g. through stating that a group is less-achieving or have incompatible values with respect to equality or gender equality[32]. Symbolic threat is formed of the fear of in-group that the out-group might undermine basic and group identity values that define their self-image[33] which implants insecurity and hostility, even if there is no personal connection with the other group.

To lessen symbolic threat and increase tolerance, the most effective way for one to lose prejudice towards an out-group, is to increase contact between these groups[34]. Overall, researches show that if people are intolerant to one group, they are also intolerant towards other minority groups, too. So favouring cross-group connection and cooperation can not only increase the attitude towards one group but to all differences, minorities in society[35]: e.g. if there is increased connection between majority nationality and an ethnic minority, the tolerance towards this ethnic group grows just as tolerance towards other out-groups including homosexuals[36]. It is a source of mutual acceptance as when people form relationships and build trust, the perceived threat starts to disappear[37]. It is best if this contact is meaningful, happens in regular situations (workplace e.g.) and involves some personal issues, like pursuing common goals or cooperation.

---

[31] Zick; Küpper; Hovermann 2011: 30

[32] Zick; Küpper; Hovermann 2011: 31

[33] Thomsen, Frølund; Peter, Jens "How Does Intergroup Contact Generate Ethnic Tolerance? The Contact Hypothesis in a Scandinavian Context" Scandinavian Political Studies. Jun2012, Vol. 35 Issue 2, p 162

[34] Zick; Küpper; Hovermann 2011: 129

[35] Thomsen 2012; Pettigrew, Thomas F.; Tropp, Linda R. "How does intergroup contact reduce prejudice: Meta-analytic tests of three mediators" European Journal of Social Psychology. Oct 2008, Vol. 38 Issue 6, p922-934.
Pettigrew, Thomas F.; Wagner, Ulrich; Christ, Oliver "Population Ratios and Prejudice: Modelling Both Contact and Threat Effects" Journal of Ethnic & Migration Studies. Apr 2010, Vol. 36 Issue 4, p635-650;
Tropp, Linda R.; Pettigrew, Thomas F. "Relationships Between Intergroup Contact and Prejudice Among Minority and Majority Status Groups" Psychological Science (Wiley-Blackwell). Dec 2005, Vol. 16 Issue 12, p951-957

[36] Pettigrew; Tropp 2008

[37] Thomsen; Peter 2012: 159

In general, we can say that building networks in society and favouring any kind of social cohesion between people can help reduce perceived threat that only bases on prejudices and insecurities. Social capital consists of having stable relationships, contacts with others, being part of a community, being involved in societies and organisations, as being committed to society build trust to others[38]. Also, the smaller the diversity, the more successful is co-existence[39]. In theory then, it would be the easiest to do in small states where people have close connections and strong sense of unity. In bigger countries, it needs to be created by civil society (peer groups, NGOs etc) or as Ratulea puts it, citizenship by its own could be used as a source of social connection, based on dignity, mutual respect and inclusion[40]. Also, if co-existence is diverse, in long term, societies create new identities and the sense of "we" broadens[41] but communication might fasten the process. Either way, the more people are interconnected, the more likely they are to tolerate others' differences.

If we treat this definition of authentic tolerance as a basic discourse that modern Western democracies follow in it's attitude towards minority, in this case LGBT, groups and their recognition, we can start building a web of factors in society that need to be filled in order for the legitimation of certain rights to happen. There is no linearity in history, so there is no value in claiming that all societies will eventually move to individualism, secularism and modernity - it all depends on it's practices and acceptance of new ideas[42]. All of these phenomenons that have helped LGBT communities gain civil rights, are dependable on their context. So far, most of Western societies are following the same patterns, so following aspects of modernisation that are caused by the change of discourse of industrialisation, enlightenment and 20th century's individualisation, are relevant to constructing our model of LGBT rights' recognition.

1.2 Historical Explanations

[38] Zick; Küpper; Hovermann 2011: 127

[39] Klicperová-Baker; Košťál 2012: 85

[40] Raţulea 2009: 46

[41] Klicperová-Baker, Martina; Košťál, Jaroslav "Ethno-National, Religious, Ideological and Sexual Diversity" Javnost-The Public. 2012, Vol. 19 Issue 1, p 86

[42] Gray, John "Pluralism and Toleration in Contemporary Political Philosophy" Political Studies. 2000 Special Issue, Vol. 48 Issue 2, p 328

Every era and society has it's discourses that are considered normal and acceptable. Identity of a society is not predetermined by ethno-cultural characteristics but is dependable on the history of practices in social, political and cultural realm, being forged, transmitted, received and re-interpreted from a nation to another[43]. As George L. Mosse and Foucault claim, what is seen normal or abnormal sexual or otherwise behaviour, is a product of historical development, not a historical law.[44] So when it comes to tolerance, people are not globally simply tolerant or intolerant, they are selective about what they will or not tolerate and about the circumstances themselves in which they are prepared to be tolerant[45]; tolerance is multi-faceted and context-dependent[46]. Only a couple of hundred years ago in Europe, and in some places still today, masturbation and homosexuality were seen as mental disorders and serious crimes that were fought against through medicine, education and religion.

George L. Mosse discusses that industrialisation was a time of change and instability that was balanced with sexual normalisation and regulation: those who could not control their sexuality, were considered unmanly and antisocial, destructing the institutions of family, state and society when doing so. Until the beginning of 20th century, church weddings embodied the ideal of the patriarchic institution[47], bearing children was a duty to state and God which connected sexual intercourse to a practical purpose. For Michel Foucault, sex is a tool for power to act hidden in order to control the private sphere of citizens: it limits sexuality, justifying itself with self-identification and racism[48], protecting people from "harm" through set norms, order and principles. To follow Foucault's thoughts, the power lies within the prejudices of time which set what is considered normalcy. Classical tolerance, as defined earlier, excluded some groups of society (those who were not religious or of some specific religion), creating a set of principles based on what people judge others to be in- or out-group members.

---

[43] Raţulea 2009: 50

[44] Mosse, George L. "Nationalism and sexuality: middle-class morality and sexual norms in modern Europe" University of Wisconsin Press, 1985

[45] Wainryb, Cecilia; Shaw, Leigh A. "Tolerance and Intolerance: Children's and Adolescents' Judgments of Dissenting Beliefs, Speech, Persons and Conduct" *Child Development*. Dec1998, Vol. 69 Issue 6, p 1541-1555

[46] Butrus; Witenberg 2013: 290-298

[47] Mosse 1985: p 19

[48] Foucault, Michel „Seksuaalsuse Ajalugu 1: Teadmistahe" Tallinn, Valgus, 2005 („The History of Sexuality 1: An Introduction"), p 93-96

With the World Wars and change of international politics in the first half of the 20th century, there were many socio-political changes taking place in Western states. Kymlicka argues that liberalism that spread in that time also demanded "a substantial realm of personal freedom - including freedom of conscience, speech, association, occupation, and more recently, sexuality, - which the state should not intrude upon except to protect others from harm"[49]. The biggest leap in the discourse of sexuality happened in the 1960s' sexual revolution that reassessed the meaning of sex, marriage and relationships. The status of marriage started to devaluate and lose its political and social significance[50]: overall marriage rates dropped, there were bigger delays in the age at first marriage, rising of divorce rates, non-marital births and growing rates of cohabitation[51]. Contraceptives were used more and more, and the primal purpose of sex was not procreation or family duty but pleasure - what is more, marriage even became a desexualising force[52]. Basically, extending marriage rights to same-sex couples in this context became less threatening to polities than before[53] as they were not as important, or central to life.

Therefore, from classical and neo-tolerance, from ignoring other values and from indifference, these historical encounters brought about a shift to the discourse of authentic tolerance that is also defined in international treaties.

According to UNESCO, tolerance is respect, acceptance, appreciation of the wealth and diversity of our world's cultures, our ways of expressing our quality as human beings. It is encouraged by knowledge, free spirit, communication and freedom of thinking, awareness and faith, it is harmony in differences; not only an ethical obligation but a political and juridical necessity. It cultivates peace culture instead of the one of war's, it is an active attitude generated by the ascertaining of the universal rights of the human person and the fundamental freedoms of others. Tolerance can not be invoked to justify the violation of fundamental values and it must be followed by

[49] Kymlicka, Will "Contemporary Political Philosophy". Oxford: Clarendon Press, 1997, p 483

[50] Lützen, Karin "Gay and Lesbian Politics: Assimilation or Subversion? A Danish Perspective" *Scandinavian homosexualities: Essay on Gay and Lesbian Studies.* Ed. Jan Löfstöm, NY: Haworth Press, 1998, p 233-244

[51] Glass, Christy M.; Kubasek, Nancy; Kiester, Elizabeth "Toward A 'European Model' of Same-Sex Marriage Rights: A Viable Pathway for the U.S.?" *Berkeley Journal of International Law.* 2011, Vol. 29 Issue 1, p 166

[52] Frank, McEneaney 1999: 915

[53] Glass; Kubasek; Kiester 2011: 166

individuals, groups and States (article 1 of the Declaration)[54]. The United Nations has claimed that tolerance can be taught through inclusion, example and education[55] which should be based on cultivating tolerance in order to promote pluralism - to make people aware of their roots but teach how to respect others[56] - and prohibit any kind of discrimination[57].

Tolerance is now a basic value in Western states where multiculturalism and pluralism seek the societies to be free of oppression, violence and discrimination; in total, tolerance is a value of democracy and in the character of a moral and good person and citizen[58]. It is the ideal of a world that features cultural sensitivity, mutual understanding and affirmation, inclusion, social justice, and eliminates prejudice and inequality[59].

With this shift, sexuality was also diversified, homosexuality that was previously considered abnormal, was to be looked at as something that needs to be understood and furthermore, accepted as a way of life. A good citizen did not only not support unreasonable or discriminatory governmental restrictions on some groups but also stood for the rights to social benefits and to be different from the majority just by being human.[60]

Having discussed authentic tolerance and historical developments in the discourse of sexuality, we now look into some practical processes and controllable goals a state could go through besides accepting the politics of tolerance both domestically and internationally. As said in the beginning, it is not useful for our purpose to only analyse some theories but to put together a whole; that is why we will not rely on just philosophical theories but go deeper into societal practical changes that could be influenced in order to claim more rights to LGBT groups.

---

[54] Declaration of Principles on Tolerance, UNESCO 1995. Permanent link: http://www.unesco.org/webworld/peace_library/UNESCO/HRIGHTS/124-129.HTM, last visited 19.05.2014

[55] Von Bergen; Von Bergen; Stubblefield; Bandow 2012: 112

[56] Raţulea 2009: 43

[57] Patterson, Charlotte J. "Schooling, Sexual Orientation, Law, and Policy: Making Schools Safe for All Students" *Theory Into Practice.* Jul 2013, Vol. 52 Issue 3, p 191-192

[58] Von Bergen; Von Bergen; Stubblefield; Bandow 2012: 112

[59] Von Bergen; Von Bergen; Stubblefield; Bandow 2012: 115

[60] Thomsen; Peter 2012: 159-178

1.3. Modernisation: Individualism, Pluralism, Urbanisation, Secularisation and Gender Equality

Mosse argues that the nude body was rediscovered already between the World Wars[61], challenging the bourgeois who had hidden it for a long time behind rigid norms and discourses. It all paved the road to the growing importance of individualism in the private sphere of Western people. The ultimate authority over their lives became central to the society, connecting sex with individual and pleasure - of which the recognition of homosexual relations is an expression[62]. Also, the person does not have to married to enjoy sexual relations because the purpose of sex is rarely procreation: there is manual, oral, anal and virtual sex that might involve more or less than two participants, whatever age (above the age of consent) and gender, whose sole goal is satisfaction[63]. This kind of discourse would have been unacceptable a little more than a hundred years ago; actions that were prohibited as deviations and socially destructive, became a stand-point for protecting one's rights, or even identity[64] that was seen being constructed through sexual relationships in which no one should have a right to interrupt. It became a right to be protected in public and to be used against the state in case the state infringed individual liberties[65]. As shown from research, individualism highly influences the formation of LGBT movements[66].

Individualism itself gained importance during Enlightenment and protestant reformation but LGBT agencies only in the 1960s which is explained by sexual revolution and gender equality: before suffragette movements individualism spread but it did not count to women (classical tolerance: excluding women from the in-group). Equality of different groups in society was severely influenced by gender equality that now made hierarchy in desire disappear[67]. It lowered the barrier between public and private realms in which LGBT movements and demands could build claims structures[68],

[61] Mosse 1985: 48

[62] Frank, McEneaney 1999: 911

[63] Frank, McEneaney 1999: 915

[64] Frank, McEneaney 1999: 916

[65] Frank, McEneaney 1999: 916

[66] Frank, McEneaney 1999: 917; 935

[67] Frank, McEneaney 1999: 917

[68] Frank, McEneaney 1999: 918

making the state respond to more groups. In turn, there was no difference anymore whether the subject of self-identification was a woman or a man. It became an issue of the whole society, consisting of equal individuals. In past, homosexuality was something put behind bars in the doctor's office and court, with individualisation sexuality became a part of identity and with gender equality a matter of concern for all members of society, losing the priority of one gender over another. To conclude, gender equality is proved to have a high effect on the liberalisation of state policies[69].

A factor empowering the grouping of LGBT communities mentioned by Mosse is urbanisation. Cities were recognised as centres of "artificial" action and restless age groups that helped to form homosexual communities and alienated them from accepted discourses[70]. When in 1800, one fifth of population lived in cities, by 1900 it had increased to half and by 1970 it had risen to two thirds[71]. What occurred through it was the bigger concentration of people (therefore lifestyles) in one place that could act hidden and find like-minded people faster. With more differences, values and opinions in close proximity to each other, people started to accept that they exist. Societies in the West also went through a broad secularisation process, or the division of state and church, and decreasing importance of religion in private and public matters. The previously discussed decrease of marital value in that period is in correlation with secularisation: prejudices that were earlier set by religious dogmas, were starting to lose importance and other ways of life were seen as equally important.

With many people living together, people belonged to more than one movement or value group which caused the democratic necessity for value and cultural pluralism: an understanding that there is no one kind way of life that everybody accepts[72]. The main purpose is for the minority to participate in the dominant society but still maintain its differences[73] - it is an expression of authentic tolerance that we discussed earlier. Value pluralism demands redistribution as none are marginalised but instead co-exist, so there

[69] Frank, McEneaney 1999: 917, 935

[70] Mosse 1985: 32

[71] Max Planck Institute for Demographic Research website. Permanent link: www.demogr.mpg.de. Last visited 19.05.2014

[72] Gray 2000: 330-332

[73] Raţulea 2009: 42-51

rises a necessity for equality and social justice to make sure every group's rights are protected.

1.4 Human Rights, Elites, LGBT Groups and Leftist Government

From 1948, the basis of moral and ethical debates have been human rights that are self-standing, not rooted in historical, religious or ethical tradition and are based on the idea that they are inalienable and universal. This helps to ensure some consensus and mutual understanding as they involve everybody[74]. Daniel Philpott has said that in the era of globalisation, human rights' discourse includes norms of collective responsibilities and also affects national politics, not only being a set of norms to be endorsed for instrumental purposes but also being accepted as legitimate[75]. The UN Declaration[76] states that tolerance is responsibility that sustains human rights, pluralism, democracy and lawful State, rejects dogmatism and absolutism; it protects authentic tolerance in all its aspects discussed above, relying on internationally accepted human rights basis. Kollman brings out that this is a powerful tool to be used amongst the minority groups as transnationally networked activists use either developments in other countries or international law with indication to human rights to frame their issue as part of human rights' problem[77]. As countries in Europe have since the middle of the 20th century been internationally committed to protect human rights, it adds pressure for governments to not be ignorant in regards to their own promises. Elites in this case can use examples from other LGBT groups, and policy elites can bring the problem in focus because the recognition of these rights is then state's responsibility towards international discourse and laws of human rights protection and development.

Ratulea has concluded that to make societal changes like giving a minority group specific rights, there has to be some kind of homogeneity and political consensus - so in a plural democracy, the many opinions are balanced by cooperation of the leaders of

---

[74] Zick; Küpper; Hovermann 2011: 163

[75] Sullivan, William M.; Kymlicka, Will. (ed) "The Globalization of Ethics" Cambridge: Cambridge University Press, 2007, 2008, p 17

[76] Universal Declaration of Human Rights. The United Nations, 1948. Permant link: http://www.un.org/en/documents/udhr/, last visited 19.05.2014

[77] Kollman, Kelly "Same-Sex Unions: the Globalization of an Idea" International Studies Quarterly. Jun 2007, Vol. 51 Issue 2, p 341

different population segments[78]. To make bigger changes, these governments should last for some time, otherwise new parties might just cancel the goals as unnecessary or incompatible with their ideology. In most cases, Glass, Kubasek and Kiester have found that a strong leftist ruling party or coalition to push through the marriage legislation has been necessary[79]. Although individualism is based on liberalism, on governmental level the need for equal rights to all groups in society proves to have higher relevance in the left where social equality, justice and cohesion is of higher importance than in the right. Also, as an ideology, the political right might be too much based on competition rather than raising the standard of life for all citizens. In a society of pluralism, of minorities that seek legal recognition, the need for rights that protect different groups from discrimination and oppression (softer values) is of higher priority than in it would be with right-wing government.

There are two active groups in society that are involved in introducing new ideas, in this case: LGBT agencies and communities; and elites.

Nierobisz, Searn and Theroux argue that elites have a strong effect on shaping public demands on new sets of rights[80]. Klicperová-Baker and Košťál conclude that it is not the civil society that governs a state (in European communities) and brings about changes but elites: policy elites, opinion elites, power elites, and most importantly, communications elites and consensually unified elites[81]. Elites' views are usually also more pronounced than those of the citizens, as if they are educating their fellows towards an inclusive tolerance and the embracing of minorities[82], meaning that they lead the way to new discourses or changes in society.

Ratulea writes that in our selected period of time, there was also rise in need for political centres that control mass media[83]: elite initiatives are linked to public opinion via that; also, public intolerance of minorities seems to push elites towards recognition

[78] Raţulea 2009: 46

[79] Glass; Kubasek; Kiester 2011: 170

[80] Nierobisz, Annette; Searl, Mark; Théroux, Charles "Human rights commissions and public policy: The role of the Canadian Human Rights Commission in advancing sexual orientation equality rights in Canada" *Canadian Public Administration.* Jun2008, Vol. 51 Issue 2, p 240

[81] Klicperová-Baker; Košťál 2012: 87

[82] Kollman 2007: 341

[83] Raţulea 2009: 42

of the higher relevance of the problem and this affects the public opinion to be more tolerant, too.[84] It also goes together with Glass's, Kubasek's and Kiester's argument that policy innovations mostly come first and the public opinion follows: public support for same-sex marriage went up in every country after its marriage rights' legitimation[85]. The evolutionary model of politics argues that legitimation steps should be small in order to be accepted, e.g. if destination is same-sex marriage then first steps should be taken to prohibit discrimination and higher recognition can be built on that[86]. If elites are well connected and have influence in the community, this kind of changes are perceived as small and the mass-media supports it, the public opinion also follows it.

If LGBT social movements are connected with elites, on domestic or international level, they receive the biggest impact to the society. So what is needed as a presupposition, is the friendly state for LGBT movements[87], then other groups such as medical professionals, political elites and sociologists also influence the state to liberalise policies. Kollman argues that these agencies rely on other factors, too, such as on weak opposition, the existence of foreign and international examples (for human right claims) and a government which is open to take these examples seriously (how much interest groups can use international norms in policy debates)[88]. Risse and Sikkink argue that the speed of this process depends on how much pressure transnational networks of advocacy NGOs, in tandem with powerful states or international organisations, can put on domestic groups and government, how domestic societies mediate these demands and the level of acceptance of this particular human rights' norm in the international community at that specific time[89].

So there is not just one key factor that a lot of authors have been looking for in order to generalise the LGBT rights' legalisation in a country. Instead, it needs to be analysed from a wider perspective that makes us realise that all these above-mentioned factors

[84] Klicperová-Baker; Košťál 2012: 99

[85] Glass; Kubasek; Kiester 2011: 168-170

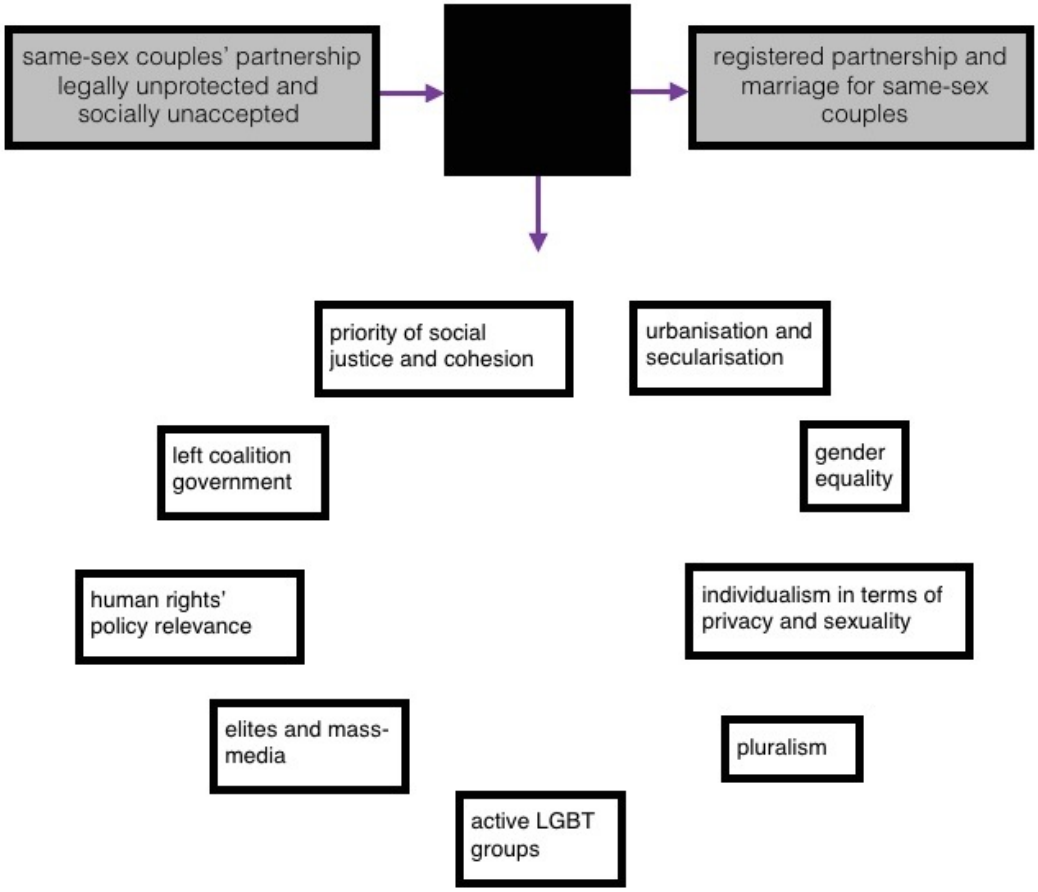
[86] Glass; Kubasek, Kiester 2011: 168

[87] Frank; McEneaney 1999: 920

[88] Kollman 2007: 333, 351

[89] Risse, Thomas; Ropp, Stephen; Sikkink, Kathryn "The Power of Human Rights" Cambridge: Cambridge University Press, 1999

are in some way interconnected - there is no right ratio of the relation between them, that is country- and circumstance- specific.



Scheme 1. Defining the factors that lead from same-sex couples' partnership being legally unprotected and socially unaccepted to when same-sex couples gain right to registered partnership and marriage. All factors from the black box are interconnected, having different importance depending on the case.

2. Case-Study: 5 Nordic Countries

The five Nordic countries under study are Sweden, Norway, Denmark, Iceland and Finland out of whom Denmark was the first to legalise registered partnership for same-sex couples in 1989. It was followed by Norway in 1992 (active 1993), Sweden in 1995, Iceland in 1996 and Finland in 2002. We will not analyse the legalisation of marriage after registered partnership but by now, same-sex couples can get married in Norway and Sweden since 2009, in Iceland since 2010 and in Denmark since 2012.

The relevant treaties mentioned further on are the United Nation's International Covenant of Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, forming the International Bill of Human Rights (1953), entered into force in 1978[90], and the European Convention on Human Rights that is ratified by all members of the Council of Europe[91]. Amsterdam Treaty, which came into force in 1999, was the first and remains the only legally binding international treaty that prohibits discrimination based on sexual orientation[92]. What can be read from these treaties is the overall acknowledgement of authentic tolerance as the basis of human dignity. The reason why we can discuss minority rights is that states, both nationally and internationally accept the discourse of tolerance that every individual is equal in its rights and their human dignity does not depend on their beliefs. So basic human rights are universal even if the majority does not agree to its opinions, values or lifestyle.

As concluded in the theoretical part, the human rights' policy relevance is also an important factor that influences the legalisation of LGBT rights for registered partnership and as the Nordic countries participate in international sphere, there are several changes that influenced them to liberalise policies on LGBT rights. These international organisations include World Health Organisation (de-pathologised homosexuality in 1991), Amnesty International, International Lesbian and Gay Association (founded in 1978) and International Gay and Lesbian Human Rights Commission (founded in 1990)[93]. The European Parliament's sexual discrimination report was published in 1984 and in 1995, the Nordic Commission on Marriage that further discussed the registered partnership laws, was formed and ILGA also joined the

[90] United Nations' homepage. Permanent link www.un.org, last visited 19.05.2014

[91] Council of Europe website. Permanent link: www.hub.coe.int, last visited 19.05.2014

[92] Kollman 2007: 340

[93] Frank, McEneaney 1999: 913

EU social platform[94]. It is necessary to notice that Norway adopted legal rights for registered partnership in 1993, Sweden in 1994 (in force in 1995), Iceland in 1996 and Finland in 2001, after and middle of these new formations in Europe that started to advocate internationally for LGBT rights.

Also, the ILGA formation had an effect on the number of other LGBT organisations that created a transnational network but it was only until the late 1980s when these groups began to use human rights frame to promote their cause and turned to e.g. Human Right Watch and Amnesty International to recognise sexual orientation as a human rights issue[95]. The influence of trans-governmental networks is said to be strongest in the Nordic countries because intermarriage in this region has been common and although there was controversy over Danish registered partnerships, it soon died down and the rest of the countries followed by the domino effect (except for Finland which will be discussed later)[96]. By 1995, Norway and Sweden had both adopted a registered partnership law that mimicked the Danish one. Therefore, the need of powerful policy elites and LGBT agencies was fulfilled as these laws were adopted by so-called peer pressure from its neighbour and the Nordic Commission on Marriage was also formed by local elites[97]. Local governments quickly agreed to mutually recognise registered partnership - but as discussed with the theoretical model, these factors are all interconnected. Without changing social moral norms, having a relatively strong LGBT movement or competent lobbying organisations to apply transnational norms and models to national settings, it would have had a small influence[98].

We will now bring out some developments that were common in all of the Nordic countries. First, all Nordic countries had low level of religiosity and the state's churches were protestant, meaning that they did not set pressure on being marriage for church's members[99]. Church's need to keep marriage between man and woman was satisfied mostly by assuring that commitment ceremonies did not have to be performed by religious institutions.

---

[94] Madson; Odegard 2013: 333

[95] Madson & Odegard 2013: 338

[96] Rydström 2011: 54

[97] Kollman 2007: 341

[98] Kollman 2007: 346

[99] Kollman 2007: 358

Second, Scandinavian farmers' parties and social democratic workers' parties had strong ties already from the 1930s which gave a strong base for social reform relying on consensus and willingness to compromise[100]. In Nordic societies, the needs of the weak were met as cooperation and assimilation were strong. In 1950s, homosexuality was rejected but then in the 1980s and the 1990s accepted which can be explained by strong societal ties in these countries, enhancing the sense of fairness and equity in society. If a party was addressed as treating homosexuals less worthy or valuable, it was the last argument and the discriminator had no basis of support left, as in the case of Iceland. There the support for LGBT movements by Social Democrats was gained which changed the the ideological goal of homosexuals' emancipation to a fight for social justice[101]. A smaller group is needed that is committed to protecting their rights and because of the priority of social justice in Nordic countries in general, it culminates with the changes of majority's opinion.

Social democracy relies on softer values, also stressing the education's level that from the theoretical part was proved to be necessary for the rise of societal tolerance towards out-groups. Especially in Denmark, but in others as well, associations and community play an important role which lessens symbolic threat as in-group is in contact with the out-group through different activities. All-in-all, Nordic welfare states seem to be a perfect hotbed for authentic tolerance and intergroup communication, also representing strong community ties and national importance of social justice and human rights.

Third, the change between 1950s and 1980s was also due to the sexual revolution, several demonstrations and the spread of AIDS. The first was discussed in the theoretical part and had a full effect in Nordic countries, too, with public demonstrations of LGBT movement[102]. Nevertheless, AIDS changed the status of LGBT groups[103] from being an insignificant part of minority protection (and usually split in its goals) to a part of society that cooperated with health agencies and government in order to prevent the sickness from spreading any further. AIDS influenced it as there were steps needed to be taken to regulate same-sex relationships, and the agencies had a new role to stand for

[100] Rydström 2011: 68

[101] Rydström 2011: 68

[102] Rydström 2011: 39-50

[103] Rydström 2011: 67

the health of all citizens and society[104]. Discussed in the theoretical part, big changes are easiest to make in small steps, so that the symbolic threat that is perceived would disappear or be irrelevant. Of course, first came decriminalisation of same-sex relation, in the 1970s LGBT agencies started talking about human rights, AIDS changed their status and therefore, legal forms became the next logical step to take. Nevertheless, policies and elite initiatives as discussed previously came first; citizens were moderate in their opinion but with the recognition of registered partnership, the support for it rose, which built the basis for proceeding to gaining marital rights for same-sex couples[105].

Next, we will proceed to individually analyse what other factors of the theoretical model were fulfilled in each country and what had the highest impact on the process, including the state's constitution that was in force at the time of legal recognition of same-sex registered partnership (all constitutions collected from International Constitutional Law database[106]) and the ratification of the International Bill of Human Rights (the level of protection of individual rights and responsibility to the international community).

2.1. Denmark

Denmark is a member of the European Union and the United Nations, having ratified the International Bill of Human Rights in 1972. Denmark was one of the founders of the Council of Europe in 1949. Internationally, Denmark is therefore tied to several treaties and obligations to protect human rights on national level. The Constitution of Denmark was signed in 1953 and states all basic human rights. The Preface ensures democracy functions with freedom of expression, the right to assemble and demonstrate opinions, even if they are not in accord with the majority or the Government. Chapter 8, Section 71, Subsection 1 sets the inviolability of personal liberty, regardless of person's convictions or descent, and Section 78 guarantees freedom of association which has a fundamental role in Denmark. All-in-all, this constitution protects individualistic rights of liberty, pluralism, equality and community ties (right to associate) which creates a basis for both protecting the minorities and the sense of social justice.

---

[104] Rydström 2011: 67

[105] Rydström 2011: 116-126

[106] International Constitutional Law database. Permanent link: http://www.servat.unibe.ch, last visited 19.05.2014

Homosexuality was decriminalised in 1933 and the first demand for legal status of same-sex couples was in 1968. During the 1980s, tow health ministers in a row were lesbian and the other gay who had good relations with both communities which meant that policy elites were widely accepted amongst the nation and lobbying on the part of LGBT agencies was easier to accept[107]. As Denmark was the pioneer in this field in the whole Europe, it could only rely on human rights' policies and international commitment but not on other examples like the ones who followed.

Also, Denmark had a long history of representative democracy[108], making sure everybody had a voice in government. Also, in a smaller state like Denmark, discrimination was felt more intensely as it depends on whether it has been experienced or observed by the person himself or by his close people.

Homo commission that was formed had good connection with 4 major parties but then did not promote registered partnership in their report yet. After some trouble of elections in 1987, the opinion poll showed that 58% of Danes supported the law. Put on the vote in Parliament, the same percentage of people voted for it[109] - it was a smooth process that sent waves to LGBT communities all over Europe.

2.2. Norway

As with the International Bill of Human Rights that is partly unratified by Norway, its Constitution is different from other Nordic countries. It was signed in 1814 and is mostly focused on the freedom and monarchy of Norway, mentioning rules on personal liberty and ownership, and freedom of religion that were meant to protect its citizen from the State (Article 2) but it does not state other rights. Nevertheless, in 2012, the church was separated from the state, before that it had some requirements for the members of the official Evangelical-Lutheran Church.

Norway is a member of the United Nations, having only ratified the International Covenant on Civil and Political Rights in 1972; also, it is not a member of the EU. It was one of the founders of the Council of Europe in 1949. Homosexuality was decriminalised only in 1972 - very late compared to other Nordic countries.With these

[107] Rydström 2011: 47

[108] Thomsen; Peter 2012: 164

[109] Rydström 2011: 53

indications, one would not say that Norway was the second country in Europe to acknowledge LGBT rights for registered partnership.

Norway adopted registered partnership law in 1992 even though it had a strong opposition by the Christian party[110] and a wide discussion and split among the Lutheran church[111]. As mentioned, Norway felt pressure from Denmark to complete its legislation and the topic also received wide media coverage[112] which affected the public opinion towards tolerance. Also its LGBT movement went through a renewal, resetting their values and goals because of the AIDS crisis. Lobbying the policy elites was successful because of the readiness to work with LGBT activists: they targeted key persons and members of Parliament who they thought might be listening to what they had to say[113]. This led to the voting with 58 votes in favour and 40 against which was mainly due to elites' work and the balance in day-to-day coalition politics[114].

2.3. Sweden

The Constitution of Sweden was signed in 1975 and states in Article 1 (point 2) that its democracy is founded on freedom of opinion and on universal and equal suffrage that is realised through a representative and parliamentary polity and through local self-government. Article 2 constitutes that public power shall be exercised with respect for the equal worth, freedom and dignity of the individual (point 1), that the public administration's duty is to promote social care, social security and good living environment and to stand for the personal, economic, cultural welfare of individuals (point 2), for democratic ideals, equality and the preserving of minorities (point 3 and 4). The Amendment of 2009 also strengthened several fundamental right and freedoms, prohibiting discrimination based on sexuality.

Sweden is a member of the EU and the UN, having ratified the the International Bill of Human Rights in 1971. It was also one of the founders of the Council of Europe on 1949. Homosexuality was decriminalised in Sweden already in 1944. Keeping all this in mind, it is hard to understand how Norway reached the law before Sweden. Sweden's

[110] Rydström 2011: 57

[111] Glass; Kubasek; Kiester 2011: 160

[112] Rydström 2011: 58

[113] Rydström 2011: 54-55

[114] Rydström 2011:56

main goal as a state is to stand for social security, equality and democracy, giving the basis for veery minority group to be recognised with all its differences.

First demand for the legal status of LGBT groups came in 1973 when the Committee on Civil Law Legalisation within the Swedish Parliament took up the issue of same-sex cohabitation[115]. A 6 years long research by the homo commission proposed in 1984 to make constitutional changes to improve the quality of LGBT's members life[116]. It claimed that same-sex cohabitation would be socially acceptable and therefore became a step forward in the legitimation process as it also gained wide media coverage. Also, because of AIDS, government closed gay saunas to prevent the spread and cooperated with LGBT movements to provide security. The delay was due to some stagnation in politics and lobbying as there was stronger opposition to this law than thought; at the Social Democratic Party Congress in 1992, the board recommended to wait and see but fortunately lesbian and gays within the party managed to influence grassroot members to pressure party's steering committee to work on the law[117]. The registered partnership law was prepared by Parliament's Standing Law Committee as the coalition had just changed and could not agree on the presentation, it was accepted in Parliament in 1994 but became effective in government in 1995.

This process was electrified by the Danish experience just as in Norway, both countries had a strong christian opposition in the countryside and heated debates in media[118] but reached the destination through the pressure from elites and international community.

2.4. Iceland

The Constitution of Iceland was signed in 1944 and states in Article 65 (part VII) the equality of people before law and the human rights irrespective of sex (gender equality in all respects), religion, opinion, national origin, race, colour, property, birth or other status. Iceland is a member of the UN, having ratified the International Bill of Human Rights in 1979, but is not a member of the EU. It became a member of the Council of Europe in 1950. Homosexuality was decriminalised in 1940, so relatively early.

[115] Madson; Odegard 2013: 161

[116] Rydström 2011: 50-52

[117] Rydström 2011: 57

[118] Rydström 2011: 58

Nevertheless, its reasons to legalising same-sex partnership, were different from previous ones.

In the end of 1980s, a lot of homosexuals decided to come to public but most importantly, stay in Iceland. The main reason why Iceland liberalised its policies were the strong community ties - in a country of 260 000 in the 1990s, everybody knows everybody by some channel which made one's problem the whole's problem. Homo commission was appointed by 1992 by lobbying policy elites that had gay or lesbian family members or friends and stood strongly for human rights[119]. Its report demanded registered partnership and change in education, outlawing discrimination. So when AIDS started to spread, it became a big issue as it involved a significant part of society[120]. Also, the consensual habits of government and lobbying influenced the process so that why registered partnership was passed with only vote against it (44:1).

2.5. Finland

Finland was the last to legalise registered partnership for same-sex couples in 2002. The new constitution entered into force in 2000, whereas a reform of Basic Rights in Chapter 2 was already signed in 1995. They mirror the constitutional rights of the European Convention on Human Rights, including the educational, social and economic rights in addition to political liberties, guaranteeing civil rights and liberties regardless of sex, age, origin, language, religion, conviction, opinion or other reasons and protecting individual integrity (Chapter 2). The international human rights obligation are even set on a higher status than the constitution.

Finland is a member of the EU and the UN, having ratified the International Bill of Human Rights in 1975. It became a member of the Council of Europe in 1989. Being relatively late in ratifying these documents and changing its constitutions, it can be said that it also affected the legalisation of same-sex rights. When other Nordic countries had already established right for same-sex couples, in Finland it was strongly opposed[121]. When for other countries, it was a lot about peer pressure from other Nordic countries, Finland was not so similar to them with its rigid politics as during the Cold War, Finalnd

[119] Rydström 2011:58-59

[120] Rydström 2011: 47-50

[121] Rydström 2011: 62

concentrated on power politics and in turn resulted in strong presidential institution[122]. Homosexuality was outlawed only in 1971 and the higher age of consent for homosexual relations compared to heterosexual relations was in effect until 1999. In 1993 a parliamentary bill gained a lot of influence that demanded adoption rights and equal treatment of couples but it was not passed[123] as there was no societal encouragement of homosexuality and it was too radical, also demanding adoption amongst equal rights to same-sex couples.

Finland differed from other Nordic countries by its lower level of secularisation (higher importance of religion) and the Lutheran State Church's higher influence on politicians[124]. Within LGBT communities, there was also a separation of lesbian and gay activists' main goals: lesbian mothers demanded rights for children, adoption and insemination but gays wanted more than that.

Of the 5 countries, Finland was the least urbanised, having more people living in the countryside which also reproduced traditional and conservative views that excluded homosexuality from legal partnership rights. The public opinion was tried to be changed in the 1980s and 90s by several publications: future president Tarja Halonen published an article, articulating the need for regulation for gay relations; and media covered a staged wedding party with 3 couples in Helsinki. What influenced the public opinion the most, was Lehtikuusi who got married with her wife Räty[125] in Sweden in 1996 - she was famous in Finland and it was a national shame to not be able to get married there. In 1999, the homo commission suggested to pass a law on registered partnership and the fact that all other Nordic countries had already accepted the law, was a strong argument[126]. The law was finally passed in 2001 and became active in 2002.

[122] Rydström 2011: 62

[123] Rydström 2011: 62-63

[124] Glass; Kubasek; Kiester 2011: 160

[125] Rydström 2011:65

[126] Rydström 2011:66-67

Conclusion

In the theoretical part, we first defined tolerance, showing the difference between classical, neo-tolerance and authentic tolerance, the last of which being the basis for 20th century most important human right conventions, such as the Universal Declaration of Human Rights (UN, 1948), European Convention on Human Rights (Council of Europe, 1953), Declaration of Principles on Tolerance (UNESCO, 1995). The main idea is to respect other people based on their human dignity that does not lessen if their beliefs are unacceptable. Nevertheless, it also invites people and societies to discuss and have a dialogue to challenge basic values, so it is about open-mindedness, not only acceptance of differences. Tolerance increases with education and income, so if state wants to influence it, it could invest in better schools and life quality. Factors that can be fought against as they decrease tolerance, are prejudices, authoritarianism, Social Dominance Orientation and perceived symbolic threat. Mostly they are outcomes of right-wing more extreme politics or core historical values but as stated by the UN, tolerance can be learned. The best way is to influence education and intergroup contact as the latter loses symbolic threat not only towards one but to other out-groups as well. Anything that helps to build social cohesion and networks, bounds the society together.

If looked through Foucault's and Mosse's historical theories, it is also clear that these changes affected the discourse of sexuality as only 80 years ago most countries in Europe criminalised homosexuality, and by 1989, Denmark was the first to legalise registered partnership, being followed by another 22 European countries by now. When a couple of hundred years ago the sole purpose of sex was procreation then with modernisation, individualisation (individual liberties in privacy and sexuality), secularisation (lower importance of church and religion in public and private realm) and urbanisation (as rural areas recreate traditional values, cities were the birthplace for pluralism) it changed to seeking pleasure, married or not, with the same sex or the opposite. A big part in it was played by the sexual revolution of the 1960s (use of contraceptives) and gender equality as this lost hierarchy in desires, making sure everyone was included in social and political decisions.

The rising need of pluralistic policies also drove the necessity for social justice that with other new claims relied on the international human rights' discourse. Two other identified factors in societies that are needed for LGBT rights' legal recognition are

active LGBT agencies and movements, and well-networked elites that have influence on mass-media and therefore on the public opinion. Whereas LGBT agencies should be active lobbyists, elites usually represent more radical views than citizens, setting the path for future developments, so the cooperation between the two is very important. Also, statistics show that mostly LGBT rights' claim comes from the left and the successful passing of the law is highly dependant on the government's coalition that is needed for the consistency of the legal process.

In order to form a model that explains the process of legalising this law, we created a model (Scheme 1) that interconnects these factors. As was the purpose of this research, we constructed a web that involves all necessary factors; the ratio between these elements vary throughout countries, as can be seen in Table 1.

	Denmark	**Sweden**	**Norway**	**Iceland**	**Finland**
urbanisation and secularisation	**X**	**X**	x (church' s role bigger than in others, also covered in constitut ion)	x	
gender equality	**X**	**X**	x (not in constitut ion)	x	x
individualism in terms of privacy and sexuality	x	x	x	x	x
pluralism	**X**	**X**	x	x	x
active LGBT groups	x	x	x	x	x
elites' network and mass-media	**X**	**X**	**X**	**X**	**X**
human rights' policy relevance	**X**	**X**	**X**	x	**X**
left coalition government	**X**	x	x	x	
priority of social justice and social cohesion	**X**	**X**	x	**X**	x

*Table 1. The fulfilment of theoretical model's factors in Nordic countries at the time preceding the legalisation of same-sex partnership. "x" - covered; "**X**" - covered and with high relevance.*

The empirical part confirmed that these factors were relevant in Nordic countries. One historical development that would be added to this region, is the importance of AIDS that raised the status of LGBT agencies as they had to cooperate with state to protect the whole society. Nevertheless, it is not something controllable if constructing a theoretical model as it would not be repeated in order to gain LGBT rights, so it is not relevant there.

In the table we can see the most important factors for those states separately. All proved to be important but in general, the biggest influence came from the elites and mass-media which also counts as the domino effect that happened after the legalisation of same-sex registered partnership in Denmark. Human rights' policies and the importance of social justice and social cohesion are also relevant in most countries (4 of 5 and 3 of 5 respectively). Distinctive characteristics among countries were: Denmark was the first to legalise these rights and therefore had the most factors fulfilled. For Sweden and Norway, the most important were human rights' policy and elites as they followed the Danish example. Iceland's progress was in large part due to close community ties and elites that lessened the symbolic threat and rose the need for social justice. Finland as the last one to legalise these laws, had lower levels of urbanisation and secularisation, and also different kind on political traditions from the rest which did not allow to accept these laws just by peer pressure. Nevertheless, in the end, elites' networks and human rights' policies mattered the most as in other Nordic countries.

Our constructed model is hypothetically good for any society that wishes to legally recognise the LGBT right for registered partnership and marriage. Nevertheless, it is only briefly tested against the 5 Nordic countries which have distinctive politics and circumstances. In other countries this might not be completely relevant in the points of community ties, and left coalition, e.g. in USA where in some states LGBT rights have been approved. This is definitely a topic worth researching but as this text here is based on a relatively wide selection of literature that have investigated the liberalisation and tolerance in societies, it can be said that this model, expecting most of the factors to be represented or active, should bring the result of recognising the rights of LGBT community.

References

1. Aboud, F. E. “Children and Prejudice” Oxford: Basil Blackwell, 1988
2. Butrus, Ninawa; Witenberg, Rivka T. **“**Some Personality Predictors of Tolerance to Human Diversity: The Roles of Openness, Agreeableness, and Empathy” *Australian Psychologist.* Aug 2013, Vol. 48 Issue 4, p 290-298
3. Council of Europe’s website. Permanent link www.hub.coe.int, last visited 19.05.2014
4. Covey, Stephen R. “The 7 Habits of Highly Effective People” New York: Free Press, 2004
5. Declaration of Principles on Tolerance, UNESCO 1995. Permanent link: http://www.unesco.org/webworld/peace_library/UNESCO/HRIGHTS/124-129.HTM, last visited 19.05.2014
6. de Weerdt, Y.; de Witte, H.; Castellani, P.; Milesi, P. “Turning Right? Socio-economic Change and the Receptiveness of European Workers to the Extreme Right” Vienna: SIREN, 2004
7. Ellis, A. “The Road to Tolerance: The Philosophy of Rational Behaviour Therapy” Amherst, NY: Prometheus Books, 2004
8. Frank, David John; McEneaney, Elizabeth H. "The Individualization of Society and the Liberalization of State Policies on Same-Sex Relations, 1984-1995" *Social Forces.* Mar 99, Vol. 77 Issue 3, p 911-943
9. Foucault, Michel „Seksuaalsuse Ajalugu 1: Teadmistahe“ Tallinn, Valgus, 2005 („The History of Sexuality 1: An Introduction“)
10. Glass, Christy M.; Kubasek, Nancy; Kiester, Elizabeth “Toward A 'European Model' of Same-Sex Marriage Rights: A Viable Pathway for the U.S.?” *Berkeley Journal of International Law.* 2011, Vol. 29 Issue 1, p 132-174
11. Gray, John "Pluralism and Toleration in Contemporary Political Philosophy" *Political Studies.* Special Issue 2000, Vol. 48 Issue 2, p 323-333
12. Guterman, N. “A book of French quotations, with English translations” (A line in a February 6,1770 letter from Voltaire to M. le Riche) Garden City, N.Y.: Doubleday, 1963
13. Hentges, G., Meyer, M. “Right-wing Extremist Attitudes in Germany: Implications of Neoliberalism and Competitive Nationalism: A Report from the Project “Socio-

Economic Change, Individual Reactions, and the Appeal of the Extreme Right", Cologne: SIREN, 2003

14. International Constitutional Law database. Permanent link: http://www.servat.unibe.ch, last visited 19.05.2014
15. Klicperová-Baker, Martina; Košťál, Jaroslav "Ethno-National, Religious, Ideological and Sexual Diversity" *Javnost-The Public.* 2012, Vol. 19 Issue 1, p 85-102
16. Kollman, Kelly "Same-Sex Unions: the Globalization of an Idea" *International Studies Quarterly.* Jun 2007, Vol. 51 Issue 2, p 329-357
17. Kymlicka, Will "Contemporary Political Philosophy". Oxford: Clarendon Press, 1997
18. Lickona, T,, "Making sense of tolerance and diversity" *The Fourth and Fifth Rs*, 2002, 8, p 1-3
19. Lützen, Karin "Gay and Lesbian Politics: Assimilation or Subversion? A Danish Perspective" *Scandinavian homosexualities: Essay on Gay and Lesbian Studies.* Ed. Jan Löfstöm, NY: Haworth Press, 1998, p 233-244
20. Madson, Nathan; Odegard, Jenny "Cause of Action: Using International Human Rights Law to Advance Gay Rights" *National Lawyers Guild Review.* Summer 2013, Vol. 70 Issue 2, p 65-87
21. Max Planck Institute for Demographic Research website. Permanent link: www.demogr.mpg.de. Last visited 19.05.2014
22. Mosse, George L. "Nationalism and Sexuality: Middle-Class morality and Sexual Norms in Modern Europe" University of Wisconsin Press, 1985
23. Nierobisz, Annette; Searl, Mark; Théroux, Charles "Human Rights Commissions and Public Policy: the Role of the Canadian Human Rights Commission in Advancing Sexual Orientation Equality Eights in Canada" *Canadian Public Administration.* Jun2008, Vol. 51 Issue 2, p239-263
24. Patterson, Charlotte J. "Schooling, Sexual Orientation, Law, and Policy: Making Schools Safe for All Students" *Theory Into Practice.* Jul 2013, Vol. 52 Issue 3, p 190-195
25. Pettigrew, Thomas F.; Tropp, Linda R. "How does intergroup contact reduce prejudice: Meta-analytic tests of three mediators" *European Journal of Social Psychology*. Oct 2008, Vol. 38 Issue 6, p 922-934.

26. Pettigrew, Thomas F.; Wagner, Ulrich; Christ, Oliver “Population Ratios and Prejudice: Modelling Both Contact and Threat Effects” *Journal of Ethnic & Migration Studies.* Apr 2010, Vol. 36 Issue 4, p 635-650
27. Raţulea, Gabriela "Minorities Protection, Democracy and Cultural Pluralism" *Bulletin of the Transilvania University of Brasov. Series VII: Social Sciences. Law.* 2009, Vol. 1 Issue 51, p 42-51
28. Risse, Thomas; Ropp, Stephen; Sikkink, Kathryn “The Power of Human Rights” Cambridge: Cambridge University Press, 1999
29. Rydström, Jens "Odd Couples: A History of Gay Marriage in Scandinavia". Amsterdam: Aksant, 2011
30. Sullivan, William M.; Kymlicka, Will. (ed) "The Globalization of Ethics”, Cambridge: Cambridge University Press, 2007 & 2008
31. Zick, Andreas; Küpper, Beate; Hovermann, Andreas "Intolerance, Prejudice and Discrimination: A European Report" Friedrich-Ebert-Buchdruckerei, 2011
32. Teaching Tolerance M a g a z i n e Permanent link http://www.tolerance.org/teach/magazine/index.jsp, last visited 19.05.2014
33. Teaching Tolerance website. Permanent link: www.tolerance.org, Fight Hate and Promote Tolerance. Last visited 19.05.2014
34. The Charter of Fundamental Rights of the European Union, 2000. Permanent link: http://www.europarl.europa.eu/charter/pdf/text_en.pdf, last visited 19.05.2014
35. Thomsen, Frølund; Peter, Jens "How Does Intergroup Contact Generate Ethnic Tolerance? The Contact Hypothesis in a Scandinavian Context" *Scandinavian Political Studies.* Jun2012, Vol. 35 Issue 2, p 159-178
36. Tropp, Linda R.; Pettigrew, Thomas F. “Relationships Between Intergroup Contact and Prejudice Among Minority and Majority Status Groups” *Psychological Science* (Wiley-Blackwell). Dec 2005, Vol. 16 Issue 12, p 951-957
37. Universal Declaration of Human Rights. The United Nations, 1948. Permanent link: http://www.un.org/en/documents/udhr/, last visited 19.05.2014
38. United Nations Department of Public Information, Education, Outreach (2008). *Unlearning Intolerance Seminar Series*. Permanent link: http://www.un.org/Pubs/chronicle/tolerance/index.html, last visited 19.05.2014
39. United Nations Educational, Scientific and Cultural Organisation [UNESCO], 1995. "Declaration of Principles on Tolerance Proclaimed and Signed by the Member

States of UNESCO on 16 November 1995." Permanent link: www.unesco.org/cpp/uk/declarations/tolerance.pdf, last visited 19.05.2014

40. United Nations' homepage. Permanent link www.un.org, last visited 19.05.2014
41. Von Bergen, C.W.: Von Bergen, Beth A.; Stubblefield, Claire; Bandow, Diane "Authentic Tolerance: Between Forbearance and Acceptance" *Journal of Cultural Diversity.* Winter 2012, Vol. 19 Issue 4, p 111-117
42. Wainryb, Cecilia; Shaw, Leigh A. "Tolerance and Intolerance: Children's and Adolescents' Judgments of Dissenting Beliefs, Speech, Persons and Conduct" *Child Development*. Dec 1998, Vol. 69 Issue 6, p 1541-1555

Kokkuvõte

Selle uurimuse eesmärgiks oli luua teoreetiline mudel, mis seletaks, milliseid ühiskondlikke faktoreid on vaja, et legaliseerida LGBT (lesbi, gei, biseksuaal, transseksuaal) kooseluseaduse legaliseerimine. Teoreetiline osa tegeles nende faktorite defineerimisega, üritades konstrueerida mudeli, mis hõlmaks kõiki faktoreid, mitte nagu enamik uuringuid, mis keskenduvad kitsastele teooriatele. Empiirilises osas võtsime kaasuseks Skandinaavia regiooni, mis on poliitiliselt ja ajalooliselt sarnane. Taani võttis samasooliste kooseluseaduse vastu 1989. a, Norra 1993. a, Rootsi 1995. a, Island 1996. a ja Soome 2002. aastal. Mudeli paika pidamise katsetamiseks vaatame, millistel faktoritel oli Skandinaavias oluline roll.

Teoreetilises osas defineerisime tolerantsuse mõiste ja vahe klassikalise, neo-tolerantsuse ja autentse tolerantsuse vahel, millest viimane on olnud 20. sajandi kõige olulisemate inimõiguste konventsoonide nagu ÜRO Inimõiguste Deklaratsiooni (1948) ja Euroopa Inimõiguste Konventisooni (1953) aluseks. Selle põhiideeks on austada teisi inimesi nende inimeseks olemise tõttu, ja selle väärtus ei vähene juhul, kui inimese uskumused pole aktsepteeritavad. See eeldab, et inimesed ja ühiskond arutleksid ja peaksid dialoogi, et enda ja teiste põhiväärtusi mõista; seega, see toetab avatud meelt, mitte ainult erinevuste aktsepteerimist. Tolerantsus on korrelatsioonis hariduse ja sissetulekuga, mistõttu juhul, kui riik soovib seda tõsta, tuleks investeerida koolidesse, haridussüsteemi ja elujärje parandamisesse. Võidelda tuleks seevastu nähtustega nagu eelarvamused, autoritaarsus, Sotsiaalse Dominantsuse Orientatsioon ja sümboolne oht. Enamasti tulenevad need parempoolsest ja radikaalsest ideoloogiast või on osa ajalooliselt kujunenud väärtustest. ÜRO leiab, et tolerantsust saab õppida, seega saab ka eelnevaid faktoreid eemaldada. Parimad viisid selleks on haridus ja kogukondade vaheline suhtlemine, mis vähendab eelarvamusi mitte ainult ühe, vaid ka kõigi teiste endast erinevatena tunduvate gruppide suhtes. Seega on riiklikult oluline soodustada sotsiaalset sidusust ja võrgustikke, mis ühiskonda kokku seoksid.

Foucault ja Mosse seletasid ajalooliselt lahti, kuidas seksuaalsuse ning tolerantsuse diskursused muutunud on. Alles 80 a tagasi oli homoseksuaalsus enamikes Euroopa riikides kriminaalne tegevus; 1989. a võttis Taani vastu registreeritud kooseluseaduse, mis hõlmas ka samasoolisi paare, ning praeguseks on Euroopas selliseid riike juba 22. Mõnisada aastat tagasi oli seksi eesmärk lapsi saada ja sugu jätkata; kõikide protsesside läbi nagu moderniseerumine, individualiseerumine (individuaalsed

vabadused privaatses ja seksuaalses elusfääris), sekulariseerumine (kiriku ja religiooni vähenev tähtsus privaatses ja avalikus elus) ja linnastumine (maakohad taastoodavad traditsionaalseid väärtusi, samas linnad olid pluralismi sünnikohtadeks), sai seksi peamiseks eesmärgiks nauding, ükskõik kas abielus olles või mitte, sama või erineva soo esindajaga. Suurt rolli mängis selles 1960-ndate seksuaalrevolutsioon (rasestumisvastaste vahendite kasutusele võtmine) ja sooline võrdõiguslikkus, mis kaotas ühiskondliku soopõhise hierarhia ning kaasas sotsiaalsesse ja poliitilisse otsustamisesse kõik ühiskonnaliikmed.

Pluralistlike seaduste vajadus oli seotud ka sotsiaalse õiglusega, mis teiste eelnimetatud faktoritega seisnesid rahvusvahelisel inimõiguste diskursusel. LGBT õiguste vastu võtmiseks on vajalikud aktiivsed LGBT kogukonnad ning eliitgrupid, kellel on tugev suhtlusvõrgustik, mõju massimeediale ning selle läbi ka avalikule arvamusele. LGBT esindajad peaksid olema aktiivsed *lobby'*istid, sest eliit, mis enamasti esindab radikaalsemaid vaateid kui tavakodanik, määrab raja tulevasteks ühiskondlikeks arenguteks. Seega on LGBT nõudmiste täitmiseks vajalikud head suhted eliidiga. Poliitilises plaanis on LGBT õiguste legaliseerijad enamasti vasakpoolsed koalitsioonid, mis võiksid ka olla stabiilsed, et tagada seadusandluse järjepidevus.

Selle uurimuse eesmärgiks oli luua mudel erinevate faktoritega, mis oleksid ühiskonnas vajalikud LGBT kooseluõiguste legaliseerimiseks, kusjuures suhe nende vahel varieerub vastavalt riigile. Järgnevas tabelis oleme kokku pannud vajalikud faktorid ning nende vastavus Skandinaavia riikide empiirilise uuringuga.

	Taani	**Rootsi**	**Norra**	**Island**	**Soome**
linnastumine ja sekulariseerumine	**X**	**X**	x (kiriku roll suurem kui mujal, mainitud ka põhiseaduses)	x	

	Taani	**Rootsi**	**Norra**	**Island**	**Soome**
sooline võrdõiguslikkus	**X**	**X**	x (pole põhisea duses)	x	x
individualism privaatses ja seksuaalses sfääris	x	x	x	x	x
pluralism	**X**	**X**	x	x	x
aktiivne LGBT liikumine	x	x	x	x	x
eliidi võrgustik ja massimeedia	**X**	**X**	**X**	**X**	**X**
inimõiguse diskursuse olulisus	**X**	**X**	**X**	x	**X**
vasakpoolne koalitsioon	**X**	x	x	x	
sotsiaalse õigluse ja sidususe olulisus	**X**	**X**	x	**X**	x

*Tabel 2. Teoreetilise mudeli paikapidavus Skandinaavia riikides vahetult enne samasooliste kooseluseaduse vastu võtmist. "x" - täidetud. "**X**" - täidetud ja suure olulisusega.*

Empiiriline osa tõestas nende faktorite olulisust Skandinaavia riikides. Lisada võiks veel AIDSi kui nähtuse, mis tõstis LGBT liikumise olulist ja vajalikkust, kuid seda ei saaks rakendada teoreeritilisele mudelile, seega pole see niivõrd oluline. Olulisimad faktorid olid eliit, massimeedia, mis seletavad pärast Taani seaduse vastu võtmist toimunud doominoefekti teistes riikides. Kõrge olulisuse on saavutanud ka inimõiguse diskursuse ja sotsiaalse õigluse ja sidususe olulisus. Taani oli selles osas teerajaja, mistõttu on tal ka täidetud enim faktoreid; Rootsi ja Norra jaoks olid kõige olulisemad inimõigused ja eliit, kuna nad järgnesid naabri eeskuju. Islandi arengut saab kõige paremini seletada väikese kogukonna, tugevate ühiskondlike sidemete kaudu, mis ühiskonda liitis. Soome oli viimane viiest riigist, mis need õigused legaliseeris, mis on seletatav madalama linnastumise ja sekulariseerumise tasemega, ja teistsuguse poliitilise taustaga.

Meie konstrueeritud mudel võiks hüpoteetiliselt sobida igasse ühiskonda, et seletada või aidata LGBT liikumisel saavutada kooseluseadust. Siiski oleme seda katsetanud vaid 5 Skandinaavia riigiga, millel on oma erinev poliitika ja olukord. Seetõttu oleks vajalik seda teemat nii sügavuselt kui mastaabilt süvendada, et terviklik teooria luua.