

Sexual Politics in Post-Soviet Societies: A Preliminary Cartography

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Brief historical background

Since the dissolution of Soviet Union, many countries that composed this political entity remain interlinked on political, economic and cultural levels. In political terms, Russia continues to be the main player in the region with its Eurasian Union and Commonwealth of Independent States (CIS) and massive ideological and financial resources it invests to remain as a reference in people's hearts and minds. Most of these states are linked through common systems of energy supplies, such as oil pipelines and electric lines and constitute a unified economic space. Most importantly, from the point of view of the analyses developed in this paper, these societies are culturally linked through the commonly understood Russian language, memories of shared recent history, dominance of Russian media and large diasporas of ethnic Russians residing in most of the countries. In this paper we will not discuss the three Baltic States -- Estonia, Latvia, and Lithuania—because they have taken an entirely different direction since the dissolution of Soviet Union.⁴⁷

The post-Soviet countries examined in this article can be divided, from geographic and cultural points of view, into three subgroups: (1) Eastern European states (Belarus, Moldova, Russia, Ukraine); (2) South Caucasus (Armenia, Azerbaijan, Georgia); and (3) Central Asia (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan). To make matters yet more complex, six unrecognized states and states with limited recognition exist in the region: Transnistria, Nagorno-Karabakh, Abkhazia, South Ossetia, Donetsk and Luhansk People's Republic. Throughout the paper we will focus heavily on the first group of states for several reasons. Firstly, we are from Ukraine and Russia (and Anna Kirey lived in Kyrgyzstan for many years), so we have first-hand knowledge of many events described below. Secondly, we have limited access to information from some countries, either because

⁴⁷ We decided to use minimum references throughout this paper. Most 'facts' that the paper relies on were derived either from our knowledge and experience as activists in the region, or from news reports and other non-academic writing in Russian. In the same manner, generalizations, trends and conclusions are our own and certainly need further refinement.

of language barriers (South Caucasus), or because of their isolation due to authoritarian regimes (mainly Turkmenistan and Uzbekistan).

While the focus of this publication developments underway in sexual politics over the past 10-15 years, in the case of post-Soviet space, it is virtually impossible to discuss transformations that took place within this time frame without mentioning the preceding decade. Thus, the paper begins with a brief description of the situation in the Soviet Union up to 1991 and in post-Soviet states in the 1990s, followed by a more thorough discussion of lesbian, gay and bisexual and abortion rights in the 2000s and the first part of the 2010s. Other areas of sexual and gender politics -- such as trans issues and sterilization -- are not as volatile, so they will be examined separately in the final sections of the paper.

Prologue: Soviet Union and the 1990's

In order to fully understand the developments in sexual politics in post-Soviet states, one should go back to the foundation of the Soviet Union. Between 1917 and the mid 1920s, the early Soviet government expressed rather liberal attitudes towards abortion and homosexuality, practices that were decriminalized (homosexuality only in Russia) soon after the 1917 October Revolution.⁴⁸ A few years later, however, when Joseph Stalin took power, a totalitarian turn occurred. Sex between men became a criminal offence in 1934 and a ban on abortion was introduced in 1936.

After Stalin's death in 1954, abortion was made legal again and the possibilities for accessing abortion were subsequently expanded until 1987. The 1987 legislation (Decree of the Ministry of Health N.1342) set the model for later legislations of independent post-Soviet countries. According to this model, pregnancy until 12 weeks could be terminated whenever the woman signed a declaration. But abortion was also allowed until 28 weeks under a broad range of non-medical ('social') indications and could also be performed after 28 weeks for medical reasons. In contrast, and quite significantly, sex between men was not decriminalized until after the fall of the Soviet Union in 1991 and remains criminalized in Uzbekistan and Turkmenistan. This discrepancy in what concerns the post-Soviet sexual and reproductive rights legal frame after the 1990s led to different trajectories in each of these areas, with LGBT activism trying to achieve progress, while reproductive rights activism makes what is possible to preserve laws that have been inherited from the Soviet era, such as legal abortion.

⁴⁸ The best source on early Soviet sexual order remains (Healey, 2001).

The fall of the Soviet Union brought not only democratization and freedoms, but desperate economic conditions caused by the very rapid transition to the neoliberal free market economy combined with a corrupt privatization process, which quickly translated into large wealth gaps. This economic deterioration, amongst other effects, led to the postponement of childbearing and a subsequent ‘demographic crisis’ that was to play a prominent role in the shifting states’ discourses on sexual politics in the years to come. In a desperate need to get recognition and financial help from the West, the newly founded post-Soviet states had to declare their support for certain ‘Western’ values in exchange for economic and political opportunities. Thus, relatively rapidly, many countries removed criminalization of sex between men (*muzhelozhstvo*) from their criminal codes in order to join the Council of Europe: Ukraine (1991); Russia (1993); Belarus (1994); Moldova (1995); Armenia, Azerbaijan and Georgia (2000). Then, in 1998, Kyrgyzstan, Kazakhstan and Tajikistan, with the support of Western experts, also reformed their penal codes abolishing criminalization of same-sex conduct between men. The only two countries that retained criminal prosecution for same-sex conduct are Uzbekistan and Turkmenistan.

In the 1990s, taking advantage of the newly acquired freedom of association and Western funding, gay and lesbian activists began forming their first organizations. Many of these early initiatives focused on HIV and decriminalization of sex between men and would fade away as soon as the latter goal was accomplished, particularly in Russia. However, some of them continue to exist to the present day, as is the case for the association Triangle (1993) in Russia, GenderDoc-M (1998) in Moldova, and Oasis (1998) in Kyrgyzstan. This was also when many women’s organizations blossomed to raise gender issues and concerns previously overlooked by the Soviet state (which had formally declared itself entirely free from gender inequality) including gender pay gap, double burden for women, gender-based violence and access to birth control. Post-Soviet gender studies units were established in universities and Western feminist writings were translated. In the field of reproductive politics, a family planning movement achieved some successes in Ukraine and Russia in advocating for state programs to be implemented. Their primary aim was to promote access to contraception and sexual education as alternatives to abortion.⁴⁹ In Russia, these efforts led to the proposal in 1996 of a progressive bill ‘On reproductive rights of citizens and guarantees for their implementation’ (*O reproductivnyh pravah grazhdan i garantiyah ih osushchestvleniya*) that was, however, rejected by the State Duma.

49 More on family planning in Russia, see Perlman and McKee, 2009 and citations therein.

On the other hand, recently established democratic freedoms have also played out to the advantage of the adversaries of sexual and reproductive rights movements. Political projects constructed around national identity and cultural traditions, inseparably linked to traditional gender roles, also began to emerge. Religious institutions long suppressed in the USSR - in particular the Orthodox Church -- regained power and the numbers of new believers expanded. Furthermore, the influx of foreign ideas and funding was not just for feeding human rights and liberalism. The proselytism of foreign religious groups, mainly evangelical Christian and to a lesser extent Muslim, also grew rapidly and old Catholic communities gained strength.

These waves brought with them the surge of a 'pro-life' and 'pro-family' groups that were also partially sponsored by Western conservative organizations. By the late 1990s, these anti reproductive rights forces were strong enough to facilitate the introduction of a bill 'On the legal framework of bioethics and the guarantees of its implementation' (*O pravovyh osnovah bioetiki i garantiyah ee obespecheniya*) to the Russian Duma. Drafted in human rights language, the bill proposed a radical prohibition of not only abortion (except for medical indications) but also of many other practices and procedures: reproductive technologies, voluntary sterilization, sex reassignment surgeries (except for intersex variations), advertisement of 'change of sex' and of 'services of a sexual nature' and the 'propaganda of homosexuality'. This legal initiative was blocked and a temporary truce was established between the proponents of these radically different views on sexual and reproductive matters.

These trends must be placed against the backdrop of the 1990s overall political environment in post-Soviet countries, encompassing a chaotically fierce competition between different ideologies in an atmosphere of relative freedom. At the same time, states' power often remained in the hands of former Communist Party functionaries who now emerged as the leaders of newly democratized nations while being keen to preserve their privileged positions. The majority of this newly established leadership did not genuinely support democratic values and would easily return to Soviet-style authoritarian practices as soon as the circumstances permitted.

The 2000s: 'Traditional values' and Vladimir Putin

The beginning of the new millennium was a turning point in the history of the post-soviet space. Firstly, it coincided with the election of Vladimir Putin as the president of Russia, leading to the subsequent authoritarian and traditionalist turn that had pronounced consequences on the region as a whole. Secondly, it coincided with increasing oil prices that boosted economies of major oil exporters, including Russia, Kazakhstan, Turkmenistan

and Azerbaijan. Growing prosperity, as compared to the poverty of the 1990s, led to higher levels of satisfaction with the governments in these societies and consolidation of the political power of the leaders. What's more, this money allowed heavy investment in police forces and pro-government propaganda. In the case of Russia, these authoritarian tendencies were manifested in the decreased independence of Russian federated regions and the victory of Putin's United Russia party in the 2003 State Duma elections.

Then came the arrests of the opposition, government control of strategic sectors of economy and the media as well as, from 2005 onwards, restrictions on the work of NGOs. Similar trends occurred in the other aforementioned countries. Financial stability allowed these countries, including Uzbekistan, greater independence from the West. In Russia, it led to the revival of its superpower ambitions now under a Eurasian ideological frame and propelling of a political discourse of revenge for the lost empire.

Countries with fewer natural resources had less space for maneuvering and aligned themselves with these other powers. While from the early days of this reconfiguration, Belarus and Armenia chose Russia as their major partner, Moldova, Ukraine, Georgia, and Kyrgyzstan were torn between the supporters of integration with Russia and those advocating closer ties with the US and the European Union. The more pluralist political landscape in these countries allowed for the successful 'color' revolutions in Georgia (2003), Ukraine (2004) and Kyrgyzstan (2005).

Attempts to take over the power of autocratic leaders were not, however, limited to these countries. In 2005, Russia was swept by riots against monetary reforms and that same year the violently clamped down Andijan protests occurred in Uzbekistan. A year later in 2006, protests against presidential election results also erupted in Belarus. These potentially revolutionary conditions led the rulers of these countries to further suppress opposition and control civil society. Western criticism of these governments' authoritarian shifts, as well as the reorientation of few post-revolution countries towards the West – as manifested in the desire of Georgian and Ukrainian political elites to join NATO – also triggered increasingly anti-Western attitudes in pro-Russian countries. In the sequence of these events, Russian authorities developed their 'preventive counter-revolution' measures and proclaimed the newly crafted concept of 'sovereign democracy' (Horvath, 2013).

The late 1990s and early 2000s also saw the power and influence of the Russian Orthodox Church rapidly expand in the region. Despite official claims of secularism, the Orthodox Church was recognized and granted a special status in three countries: Russia (Law on freedom of consciousness, 1997), Georgia (Constitutional

Agreement, 2002), and Armenia (Constitution Amendment, 2005). In most countries, the same benefits were not granted to other religious groups, even when Catholicism would also grow in Western Ukraine and Belarus. On the other hand, in the late 1990s, and especially following 9/11 events and the US invasion in Afghanistan, Islam increasingly came under attack in Central Asia, as for example in Uzbekistan.

The strengthening of the Orthodox Church in Russia coincided with the shift of balance between abortion rights and pro-life movements. In 2003, the government, while retaining the right to abortion under demand until 12 weeks of pregnancy, reduced the number of 'social indications', grounds that allowed for abortion after the 12th and until the 22nd weeks of pregnancy (Government Decree N.485). The social grounds are now limited to: situations in which a court decision has deprived the woman of parental rights; pregnancy resulting from rape; the incarceration, disability or death of the woman's husband; and health impairment of the woman or the fetus, a medical indication in which abortion is permitted at any stage of pregnancy. In Ukraine, restrictions to abortion legislation were also introduced in 2006 (Resolution of the Cabinet of Ministers N.144), reducing the latest stage for abortion to be permitted on non-medical grounds from 28 to 22 weeks; and the list of 'social indications' radically limited to being younger than 15 or older than 45, rape, and disability of the husband.

At that time, while attacks on abortion rights were clearly intensifying, LGBT rights had not yet emerged as fully visible political target of conservatism, basically because LGBT people and their claims remained concealed from the public sphere. Even so, it is worth noting that the legislation prohibiting 'homosexual propaganda', which would gain momentum a decade later, was introduced in Russia as early as 2003⁵⁰ by the ultra-conservative Member of Parliament Alexander Chuev. Interestingly enough, the primary target of this bill was not the political activity of LGBT advocates but films and TV shows that presented LGBT people in a positive light. Three attempts were made to criminalize 'homosexual propaganda' between 2003 and 2009. The first two attempts failed due to formal bureaucratic reasons and at the third time, in 2009, the law received negative feedback from the Federal Government and the Supreme Court. While supported by all three opposition parties represented in the Duma, it was rejected by the United Russia ruling party that held 70% of votes in the State Duma at that time.

All suggests, therefore, that the Kremlin had not yet realized that LGBT issue was a useful topic to be instrumentalized in both international and electoral politics. It is also quite significant that no similar attempts to

50 As mentioned earlier, the ban on 'propaganda' was already part of the bill on bioethics in 1998. However, in 2003 it was introduced as a separate law.

restrict the rights of LGBT persons were registered in the other countries at that time. The only exception was the ‘propaganda’ ban that passed successfully in 2006 in Ryazan Oblast’, a region of the Russian Federation. Yet propaganda was not the central focus of this law that aimed more generally at the ‘protection of morals and health of children’ (Law of Ryazan Oblast’ N 66-03). Nevertheless, the absence of homophobic/transphobic legislative initiatives -- or the failure of these provisions to be approved in parliament -- did not mean that the human rights of LGBT people were not violated in everyday life. In fact, in the 2000s, as religiosity and political authoritarianism became more pronounced in many countries of the region, restrictions in freedoms and discrimination of LGBT people have increased as compared to the early 1990s.

The establishment of several LGBT organizations in the second half of this decade can, in fact, be explained as a community response to these religious, conservative and authoritarian turns. In 2004 in Kyrgyzstan, the CSO Labrys was founded to engage with lesbian, bisexual women’s and transgender communities in response to a discrimination episode faced by a group of young university-educated lesbians in a ‘friendly’ café (Wilkinson & Kirey, 2010). In Russia, the two best-known LGBT organizations, GayRussia and LGBT-Network, were created in 2005 and 2006 respectively, representing radically different facets of Russian LGBT activism. While GayRussia is engaged in radical public protests and litigation, the Network has opted for more classical ‘advocacy’ methods, organization of peaceful events, engaging in difficult strategic litigation, monitoring of discrimination and the publication of reports and brochures.

The surge of LGB activism can also be partially explained by the abundance of funds allocated to HIV and LGBT issues by foreign donors and embassies from the 2000 on, even when the most radical organizations such as GayRussia, do not exactly fit in this mold. In contrast, the funding of more ‘traditional’ feminist causes such as gender violence, abortion and sexual education appears to have diminished and there were significantly fewer women’s NGOs founded in the 2000s compared to the 1990s. Once again, trends in funding did little to affect less formal feminist organizing.

On the whole, the 2000s were a period of stabilization which followed the turbulent 1990s and which coincided with a gradual turn to conservative values. In the mid-2000s, several governments were contested by the “color” revolutions. Those that survived turned even more authoritarian and conservative than before, with detrimental consequences for human rights activists broadly speaking and sexual and gender politics in particular.

The 2010 ‘backlash’ in Russia-leaning states

The crackdown of 2011-2012⁵¹ on pro-democratic protests in Russia and the third presidential term of Vladimir Putin beginning in 2012 were followed by even more severe attacks on opposition and human rights activists. In the political climate then and now prevailing, the 1990s are retroactively portrayed by the large majority of the population as a dark period of national humiliation that the country must overcome by reestablishing the power of both Soviet Union and Russian Empire. This implied a full ‘return to traditions’, both Soviet and tsarist, no matter how incompatible these two strands of state power may have been as historical realities.

These developments also led to a new wave of conservative backlash in other countries of the region, especially in those geopolitically oriented towards Russia. In 2013-14 in Ukraine, a successful revolution, ‘EuroMaidan’, geared the country to the West while Russia annexed Crimea and supported anti-Ukrainian forces in Eastern Ukraine. In Russia, this meant the further consolidation of the power system around Putin, while for the region in general it resulted in further ideological polarization. From there onwards it becomes very difficult to discuss sexual politics in the post-Soviet space as a whole. For this reason, in the next few pages, we will firstly address the trends underway in Russia and how they spread to other countries that are under its hegemony. We will also look into the dynamics at play in the more Western-oriented nation-states. Bear in mind that national differences are often quite blurred, but the distinction we have established is convenient in analytical terms.

Abortion restrictions

In 2011, a new requirement was introduced for women wishing to undergo abortions in Russia: a waiting period of two to seven days (Federal Law N.323, Article 56). This measure was, in fact, the component of a more ambitious package of restrictive requirements that also included husband’s consent (if the woman is married), parent’s consent (if she is adolescent), forced visualization of the fetus and hearing its heartbeat, as well as psychological consultation). Despite being strongly supported by the Russian Orthodox Church, these other amendments were criticized by the government and members of the ruling party and rejected. Yet in 2012, the anti-abortion movement had another victory when the list of social grounds for allowing abortion that was already reduced in 2003, was brought down to just one indication – rape (Government Decree N.98).

51 The Duma elections were on December 2011 and Presidential elections in March, 2012. The final crackdown actually occurred in May, 2012.

At the same time, the fight to remove abortion from the compulsory medical insurance system is gaining momentum. Similar trends were observed in Belarus, where the number of social grounds for allowing for abortion was reduced in 2013 to rape and deprivation of parental rights (Resolution of Council of Ministers N.23). Psychological consultation before abortion was added, in 2014, and doctors were granted the right of conscientious objection that allows them to refuse to perform abortions for moral reasons (Law N.164-3). Both the Orthodox and Catholic churches heavily support the anti-abortion movement in Belarus.

Despite the growing restrictive climate in both countries, the 1987 definition that abortion on demand by the woman is legal until 12 weeks of pregnancy remains on the books. As for social grounds, they are now limited to rape and women's loss of parental rights in Belarus and only rape in Russia, and can be used to end pregnancy until 22 weeks. The medical indications of women's health risk and fetal impairments also remain intact and the procedure can be accessed at any stage of pregnancy.

“Propaganda laws” and other relevant LGBT issues

Unlike what had happened in previous attempts to ban ‘propaganda of homosexuality’, the years preceding the 2011-2012 elections in Russia were much more favorable to this type of proposal. This was when such law provisions were tabled at regional parliaments.⁵² Public discussions that accompanied the adoption of these laws now often mentioned not just foreign gay celebrities or TV programs as they had in the 1990s and 2000s, but the established Russian activists and organizations that had emerged in the previous years. The most intense debates occurred in Saint Petersburg, the cultural capital of Russia and one of its most Westernized cities, where LGBT movements and communities have substantial visibility. Saint Petersburg was the only place throughout the country where the law provision met any opposition in parliament, from members of the European-oriented party Yabloko as well as by the local government ombudsman and human rights defenders. In some cases, as in Saint Petersburg itself, the parliamentarians went so far as to include propaganda of bisexuality and transgenerness.

⁵² The correct description of these bodies is “parliaments of federal subjects” but this is too formal and rarely used, the term “regional” is more commonly used to describe them.

The federal version of the law (Federal Law N.135), which passed in June 2013, made all previous regional-level laws redundant. Unlike regional laws, in the national provision the language used was not homosexuality but 'non-traditional sexual relations'. By then Yabloko, the only registered party that had been critical of local anti-propaganda provisions, was voted out of the State Duma in the 2011 elections. Therefore, the voting in favor of the law was almost unanimous, with only one MP abstaining. It is often assumed that 'propaganda' laws were introduced to manipulate public opinion during the election campaign with the aim to distract attention from other more acute problems. Indeed, two of the most resonant bills, in Arkhangelsk Oblast and Saint Petersburg, were introduced on the eve of the elections. However, post 2011 election developments, including the federal provision, make it clear that these laws were valued as such by the parliamentarians who proposed and approved them.

Since 2013, negative discourses on 'propaganda' continued to be systematically used to juxtapose Russian culture and the 'West'. Yet, despite the fears of activists, neither of these laws is being consistently applied in legal practice. In the few cases when they have been invoked, activists have deliberately infringed the regulation for the purposes of strategic litigation. The most frequent use of the law is to prohibit LGBT street protests. But in practice this use does not alter much of what was already in place, as these protests were already prohibited for various unrelated reasons. On the other hand, and more importantly, these laws indeed fuel a climate of hatred and give license for conservative groups to shut down LGBT events and assault LGBT people.

In Ukraine, following the Russian example, proposals to ban 'propaganda' were also made in 2011-2012, having the Crimean Members of Parliament as their leaders. One of the bills (N.8711) even passed the first reading. However, after the successful revolution in 2014, pro-European forces gained political control, and the bills became irrelevant. Also, in line with its general alignment with Russia, the parliament of Kyrgyzstan introduced its own 'propaganda' bill (N.6-11804/14) in 2014, when -- apart from geopolitical trends -- intensive debates on homosexuality were sparked following a Human Rights Watch report on police violence against gay and bisexual men (Human Rights Watch, 2014). Kyrgyzstan's bill implies more severe punishment than its Russian counterpart (up to one year in jail); moreover the bill does not specify children as the only potential victims of 'propaganda'. With several modifications, the text has passed two readings already, but it is still pending of a final vote.

An attempt to introduce a propaganda bill was also made in the Russia-leaning Autonomous Territorial Unit of Gagauzia (Moldova) in 2013, but it was later repealed by the local court under pressure from Moldovan central

administration. Another ‘propaganda’ law passed in Kazakhstan in 2015, but was found unconstitutional by the Constitutional Council on technical grounds (‘vague wording’). In fact, the real reason behind the repeal might have been the willingness of the government to improve the chances of the country to host 2022 Olympics (Human Rights First, 2015). While fierce debates on ‘propaganda’ were held in almost every post-Soviet country having at least minimal freedom of speech, in no other countries the conservative forces were successful enough to pass new legislation.

But the most relevant aspect in that respect is that, contrary to the intended goal of these restrictive laws on abortion and LGBT rights, these reform processes have generated great visibility and multiple public debates on feminist and LGBT issues. More significantly yet, these laws became a catalyst for consolidation of both movements as many previously apolitical women and LGBT persons now felt that their rights were under attack. In Russia, the critique of how these laws have been promoted by the United Russia party and other conservative parliamentary members led many people to conclude that no human rights progress can be achieved under the current political system and to join opposition forces.

Another factor favoring the coalition of LGBT, feminist and opposition groups in Russia is that authorities have for some time permitted the protest of the ‘general’ opposition against unfair elections or corruption, but prohibited all demonstrations concerning LGBT issues. As a result, the wider opposition rallies were the only space where LGBT activists could publicly raise their demands. The coexistence between feminist and LGBT activists, on the one hand, and opposition organizations, on the other, has not always been friendly. But, since the 2011-2012 big Russian rallies ‘For fair elections’, the voices with rainbow flags and feminist slogans became a legitimate element of all events called by the political opposition. However, further progress in this direction stalled after the opposition lost ground under the effect of the skyrocketing popular approval of Vladimir Putin (higher than 80 percent) that followed the annexation of Crimea in 2014.

Not unexpectedly, harsher proposals by Russian parliamentarians have followed the 2011-2013 legal reforms, such as penalization of ‘public expression of non-traditional sexual relations’ and even re-criminalization of homosexuality. Even if they have not been taken seriously, several other laws have been passed that put indirect pressures on LGBT activists, such as raising tenfold the fines for participation in unauthorized street protests. Furthermore, any organizations receiving grants from foreign donors now have to register as ‘foreign agents’, a label with a pejorative connotations implying that they ‘work for foreign governments’. Not to mention that this rule adds a further administrative burden on the organizations. By 2015, the Open Society Foundation, one

of the leading donors on LGBT issues was included in the list of ‘undesirable’ organizations in Russia and has effectively halted its work at country level. The ‘foreign agents’ formula was exported to Kyrgyzstan, but the bill aimed at restricting foreign funding was dropped in 2016.

It is also important to briefly analyze the international reaction to propaganda laws and its effects. One main caveat of this reaction was that it was almost entirely focused on Russia, ignoring similar developments in neighboring countries. Secondly, the ‘solidarity’ actions that have been promoted, including those that erupted during 2014 Olympics in Sochi, were often based on problematic cultural stereotypes about Russia, as for example the proposed boycott of ‘Russian’ vodka (Savage, 2013) of a brand Stolichnaya that is not even produced in Russia but in Latvia. As usual, these actions have not taken into account the viewpoints of Russian activists. Last but not least, international (or more precisely, Western) criticism of the laws was hardly helpful when the anti-LGBT campaign was part of the Russia’s cultural war against the West.

Situation in ‘unrecognized’ states

In 2014, as soon as they have been established, the unrecognized Donetsk and Luhansk People’s Republics in eastern Ukraine introduced legislation to punish homosexuality and its propaganda. In both territories, a general climate of lawlessness and impunity prevails that encourages discrimination, unwarranted violence and the open shooting of people. For its part, the Southern Caucasian republic of Abkhazia passed a law in 2015 completely banning abortion, except for the cases of antenatal death of the fetus and in 2016, its Constitution was amended to include the ‘protection of life of a mother and an unborn child’.

Post 2010 Developments in ‘West-oriented’ countries

Sexual politics in countries termed here as ‘West-oriented’ – Georgia since 2003, Ukraine since 2014 and Moldova⁵³ – has a quite different facade. To comply with demands of their EU partners, these countries have made efforts to eliminate discrimination against LGBT people at the legislative level. In Georgia, the first anti-discrimination law on sexual orientation was passed three years after the 2006 “colour revolution” as an

53 Politics in Moldova is turbulent. They have a pro-EU parliamentary majority and a pro-Russian president (whose powers were suspended a month ago), while society is more leaning to the EU.

amendment to the Labor Code. General law banning discrimination based on sexual orientation came into effect in May 2014 (Law of Georgia on the Elimination of All Forms of Discrimination). In 2012, amendments to the Criminal Code were also introduced making a sexual orientation motivation an aggravating factor in criminal situations. In Ukraine, anti-discrimination clauses were introduced in the Labor Code in 2015 (Bill N.3442), after five re-voting processes and under heavy pressure from the EU. In 2012, Moldova passed anti-discrimination legislation that includes sexual orientation, but exclusively covering employment (Law N.121 on Ensuring Equality). As in other countries, the law's primary aim is to please Western partners and fulfill the requirements for visa-free regime with EU.

These developments might induce uninformed observers to believe that real progress is underway in these three states. For instance, ILGA-Europe Country Ranking (ILGA-Europe) places Georgia higher than any other post-Soviet country except Estonia. However, unlike most Western countries where anti-discrimination laws were passed as a result of internal political process, the three aforementioned states adopted them in a top-to-bottom approach for mere geopolitical reasons. The laws do not enjoy popular support and are rarely used except in Moldova, due to constraints and homophobic and transphobic attitudes on the part of those who are charged with enforcing anti-discrimination provisions. Furthermore, the laws may actually cause more harm than good, since they generate much backlash because the population views these norms - and by extension, all LGBT people - as connected to foreign neocolonialist interventions. Finally, these legislations are very vulnerable to any potential changes in international relations or the situation with LGBT rights in Europe and North America, as they might be easily reversed under external geopolitical pressure.

A number of recent events make evident the high levels of transphobia and homophobia that exist in these three countries, regardless of the existence of these laws. The participants of an anti-homophobia rally of May 17, 2013 in Tbilisi, and of the Kyiv Equality March that same year, experienced high levels of aggression at the hands of counter-protesters and violence in case of Georgia. Then in Ukraine in 2014, the military conflict in its Eastern regions was used by the state as a pretext to ban an Equality March and in 2015 homophobic groups attacked the Equality March. It must also be said that the police did not take adequate action to defend LGBT activists in Tbilisi in 2013 either. And if in Kyiv the public security forces were more successful in that regard, once again this is attributed to EU pressure, which appears to have also ensured a peaceful demonstration in 2016 and 2017. By then, however, in Georgia a constitutional ban on marriage for same-sex couples was being widely discussed and later passed by the parliament. To further demonstrate how superficial in progress has been, suffice to recall that no positive developments are registered in these countries in regard to the non-geopoliticized issues, such as trans rights or sex work.

Abortion and sterilization in less volatile contexts

While LGB rights and abortion in Christian-majority states are very politicized issues, other areas of sexual politics remain less volatile. For this reason, it is difficult to place them on the timescale adopted to frame this paper. Concerning abortion policies in the post-Soviet context, no change is a good thing in itself, since it means that the states left unchanged the already progressive approach of the Soviet Union. Restrictions on abortion seem unlikely to occur in the near future, as shown in Kyrgyzstan and Kazakhstan where attempts to restrict existing laws were successfully blocked by civil society. Similarly, relevant legislation in South Caucasus states has remained almost unaltered since the Soviet era, despite appeals by various religious-affiliated groups to ban or restrict abortion.

However, an issue that makes the South Caucasus region unique is the rapid spread of sex-selective abortions after 1990s when under the impact of Western commercial medical equipment, sex-screening methods became widely available. As in China and India, these technological trends, coupled with the patriarchal culture and son preference, allowed sex selective abortion to become a regular practice. This is already impacting on the sex ratio. In response to the critique raised by international actors in relation to this practice, states started to discuss means to approach the problem. In 2016, Armenia introduced a ban on sex-selective abortion. The legislation was criticized for the possibility of limiting access to abortion in general (The Guardian, 2016).

Another critical issue to be examined is voluntary sterilization, which is generally available, although the conditions vary widely. Armenia, Azerbaijan, Kyrgyzstan, and Tajikistan have no restrictions on voluntary sterilization for adults. In Belarus, Kazakhstan, Russia, and Turkmenistan the rules include being over 35 or having at least two children (in Turkmenistan – three). On the other hand, in Ukraine sterilization is available only on medical indications. But with regard to coerced sterilization, Uzbekistan is a hotspot. Since 2005, mass sterilization of women with more than two children has been reported. The procedure used is tubal ligation or the removal of uterus and/or ovaries, performed after caesarean sections, often without women's knowledge or consent (Antelava, 2012).

Furthermore, forced sterilization is practiced throughout the region on people with mental disabilities. In a notorious 2008 judicial case, the director of a psycho-neurological hospital in Russia who was responsible for forced sterilization of 14 women, was found not guilty due to a legal loophole (Sizova, 2011). However, in

contradiction to what is sometimes claimed to be sterilization as a requirement for legal gender recognition in post-Soviet countries (see Transgender Europe, 2017), the procedure is not explicitly required in any of the countries examined by this paper – even when genital surgeries that, often required may lead to infertility (see below).

Trans issues: from a medical condition to politicization

Unlike sexuality and gender, for a long time ‘transsexualism’ has not been considered a political issue in the post-Soviet region, but rather a medical condition. Persons changing their gender and sex were known to Soviet medicine since the early days of the socialist regime, but it took some time before transsexualism was accepted as a genuine disorder by Soviet psychiatrists. Until then, many transsexuals were diagnosed with schizophrenia (an extremely vague diagnosis in Soviet psychiatry), which barred them from medical transition and legal gender recognition. The very first transsexual surgery (phalloplasty) to be performed in the region was done in the early 1970s in Riga, then in the Latvian Soviet Socialist Republic. The surgeon was severely criticized by his superiors from Moscow (Gnedinskaya, 2014). Afterward, surgeries have been performed by doctors in several cities who expressed committed to the wellbeing of trans people, often without official approval. But as long as successful ‘transition’ required not only medical procedures, but also legal recognition and acceptance in society, some activism began to emerge.

This ‘activism’ began with the doctors, mainly progressive (for those times) psychiatrists and sexologists who spoke on behalf of their patients. They tried to convince bureaucracies and society at large that transsexualism was a genuine illness. They advocated for transsexuals to be viewed with sympathy, not condemnation, and for their gender to be legally recognized. Psychiatrist Aron Belkin, in his book *Third Sex* (2000) described many episodes in which he personally helped trans people to obtain a new legal status. While some doctors acted on a case-by-case basis, in the late 1980s in Saint Petersburg the local Registry and psychiatrist Dmitry Isaev collaborated to standardize a legal gender recognition (LGR) procedure without requiring surgery (Burtsev, 2015). As groundbreaking as this may seem, it should not mislead anyone into thinking that the Soviet state was open-minded about trans people. Transsexualism was perceived as a psychiatric disorder and not addressed as a citizenship right. The doctors who advanced transsexual causes clearly distinguished between ‘true transsexuals’ who needed their help and all the rest, including gays and lesbians and what we now call trans people who do not fall into their rigid definition of transsexualism. Accordingly, most doctors held and still hold rather conservative views about gender roles and sexuality.

Since legal gender recognition (LGR) of trans people is often at the center of their interaction with the state, it is vital to also trace both historical and current maps of LGR rules and procedures in the region. Soviet passports had no entry for a gender marker, but this did not make the lives of trans persons easier because their name, surname and patronymic were decidedly gendered, as were other entries such as that referring to nationality. Furthermore, gender was mentioned in the records of civil status upon which all the documents such as birth or marriage certificates issued by the Registry were based.

In contrast, the new passports issued by post-Soviet states contain a legal gender entry based on the acts of civil status. In 1998, the Russian Duma passed a new law 'On the Acts of Civil Status', defining that legal gender recognition requires '*a document in established form about the change of sex issued by a medical organization*'. Since the law did not provide further elaboration on the degree of medical intervention that was being required this rule was subject to different and contradictory interpretations of various registries and courts. This same formula was replicated in laws adopted in Moldova (2001), Armenia (2004), Kyrgyzstan (2005), and Tajikistan (2006). More detailed laws were introduced in Ukraine (first in 1996, later in 2011), Kazakhstan (first 2003, changed in 2011), and Belarus (2010). Most of these reforms were not politically motivated nor were trans people involved in the processes. It is quite safe to suggest that these legal reforms requiring a medical procedure were introduced at request of Civil Registry staff and/or doctors.

The exceptions are, however, Kazakhstan and Kyrgyzstan. In Kazakhstan, the 2011 reform was motivated by the pressure of the LGBT organization 'Amulet' and converged with the government's aspiration to look more progressive in the eyes of European partners. The new legislation (Government Decree N.1484) received considerable media attention. It, in fact, violates the human rights of trans people to a greater degree than the previous rules because it requires a trans person to stay 30 days in a psychiatric institution for diagnostics and surgery as a prerequisite to LGR.⁵⁴ An attempt to introduce a clear and straightforward LGR process was also made in Kyrgyzstan by 'Labrys', but it failed in 2012 due to government instability and conservative media attacks. The process that was finally developed in collaboration with activists and adopted in 2017 does not require any medical treatment to be performed, but the diagnosis of 'transsexualism' is a prerequisite (Kyrgyz Republic Ministry of Healthcare and Republican Center of Mental Health Care, 2017). The reform of the LGR mechanism in Ukraine has been underway since 2016. While the final outcome is unclear, the opinion of activists is being taken into account.

54 The norm is also in open contradiction to the country's reality as there are no medical facilities with expertise to perform some of the required surgeries.

The examples of these three countries show that trans issues began to slowly enter political discourse in the late 2000s. It may be argued that this politicization derived from the pressure made by trans, LGB (T) and human rights activists and organizations that now exist in the region. Russia is an exception. In 2017, the Ministry of Health started to develop the 'established form' of a document clearly defining LGR procedure in the country. While the precise reasons for this development are unknown, they are almost certainly not related to pressure from activists or external pressure. It is important to note, however, that the final version of the document (Decree of the Ministry of Health N.850H) took into account some demands of the activists (Transgender Legal Defense Project, 2018; Kirey-Sitnikova, 2018).

Current modalities of trans activism

Having the brief historical background offered above in mind, this section offers an overview of post-Soviet trans activism today. This overview is organized around four types or modalities of activism that have emerged across time, albeit not strictly in chronological terms, and that co-exist at present while quite often operating in isolation from each other.

Horizontal mutual support networks

Given the relatively small number of trans people and the vast distances within and across post-Soviet countries, effective communication among them just became possible with the spread of the Internet in late 1990s. After gaining knowledge from English-language websites and mailing lists, trans people in post-Soviet space began quite early to create their own web-based resources. The oldest of these resources is the mailing list TGrus that was started by a trans woman from Kyiv in 1998 and remains active today. The list is dedicated to a wide range of trans issues: personal stories, especially acceptance of one's gender identity, transition and discrimination; advice on hormonal therapy and 'passing' in the desired gender role; discussions of doctors and surgeries; news discussions, etc.

Since the early 2000s, the number of trans websites and web forums grew rapidly. Not long afterwards, people engaged with these web-based resources started to organize offline meetings, especially in bigger cities, that typically took place in cafés or outdoors. The first space organized as such appears to have been the shop 'Transgender', run by a trans couple in Moscow since 2007. The shop mainly specializes in clothing for

trans people and cross dressers, but is also a place for trans friendly hair removal as well as support groups and various gatherings. Later the same couple opened a private clinic that provides transgender health care including the full spectrum of services for gender transitioning. A characteristic feature of this thread of activism is its practical orientation towards the enhancement of self-help among trans people. This activism operates on a network basis with no apparent hierarchical organization or leadership, although it might act as a launch pad from which organization can develop, and it does not seek external funding. Without ambitious goals to reorganize society or change policies, it tries to establish support ties and help persons to better live their lives in the world as it is.

State and biomedical oriented advocacy

Another important activist strand may be characterized as advocacy towards the medical system and the state bureaucracy. It is exemplified by two organizations both trans led: FtM-Phoenix in Russia established in 2008 and T*ema in Ukraine established in 2014. The former organization works extensively with doctors throughout the post-Soviet region and has organized two conferences on trans health, in 2013 and 2014, in Moscow. It also advocates for more comprehensive regulations on LGR with the Russian Ministry of Health. Since 2016 T*ema has been participating in a working group that developed a draft of new LGR regulations that would significantly reduce the number of requirements, including compulsory surgeries. Despite some visible political results, other activists regularly criticize these organizations for being 'conformist' and 'pertaining to the system'. Yet these are exactly the qualities that permit these organizations to establish contact with authorities and push for legal and policy changes, however small they may be in the current political situation prevailing in most countries of the region.

LGBT activism

A third type of activism makes demands for structural change and most often works from outside the medical and bureaucratic systems, even where this inside/outside divide is subtle. It differs ideologically from the two previous strands in that it raises many criticisms - based on human rights principles, international agreements and feminist theories -- in regard to the power exercised by medical and state authorities over the lives of trans people. Because the general public perceives all these conceptual references as foreign and Western, it is exactly this form of activism that governments aim to outlaw by introducing the 'foreign agents' regulations.

On the other hand, the political and conceptual affinity between these streams of activism and the international LGBT, human rights and feminist movements also means that they are better positioned to sell their agenda to international donors. The recent shift towards the inclusion of trans issues in the agenda of these LGBT organization is, in large part, motivated by their desire to improve their image in the eyes of donors, who are now pressuring in that direction.

This cluster is more heterogeneous and includes many cisgender people, especially LGB-activists. In a prototypical case, an LGBT organization is created by cisgender lesbians and/or gays with no knowledge of trans issues, but the letter 'T' is added to their name because it is part of the imported LGBT acronym. Later some trans people may or may not demand inclusion, based on the fact that transgender is mentioned in the organization's name. Since their needs are somewhat different from those of cis-LGB people, they sometimes form separate groups inside the organization, while using its resources such as grants, office space, lawyers, etc. The level of integration between trans and cisgender activists varies from determined commitment to trans causes to cases where trans people's existence is only recalled when it is necessary to demonstrate that they have been included. The past two years, however, have seen the emergence of several trans organizations, which were previously institutionalized as trans groups inside LGBT organizations.

Cultural queer activism

The fourth cluster might be called 'cultural activism' because it fundamentally aims at changing people's minds and cultural perceptions. It is neither about reforming the laws or medical procedures, nor providing immediate relief and support for trans people. It takes multiple forms that range from radical writing to public lectures and to street actions and performances. It has long term aims: the overcoming of cissexism, patriarchy, medical authority (including trans-pathologization) and of intersecting oppressions, broadly speaking. The underlying theories informing their vision is often uncritically borrowed from Western sources without much consideration of how relevant these frames may be to post-Soviet realities. Its main source of conceptual influence is trans/feminist⁵⁵ and queer thinking and those who belong to this domain of activism are mostly privileged and well-educated trans and gender-variant people. Cultural activism is frequently and consistently condemned by many members of trans communities because it is viewed as a politics merely devoted to bluntly criticizing the system

55 On the introduction of transfeminism in Russia, see Kirey-Sitnikova, 2016

without making any concrete proposals on how to improve the lives of trans persons. Another key aspect is that while cultural activism aims at making trans issues visible, most trans people in the region are not always comfortable being made visible or to see trans issues publicly discussed.

Overarching trends in trans activism

Such a spectrum of activism modalities that range from a focus on needs and small deeds to political action mobilized by revolutionary dreams is not unique to the post-Soviet space. Yet in the region these modalities have peculiar features that deserve to be looked more closely. The LGBT and cultural queer activist strands have been enhanced, almost everywhere, by the spread of ideas emanating from the Western world, whether mediated by Western donors (LGBT activism) or not (cultural queer activism). However, in their own ways the other two ideal types (horizontal self-help networks and state/biomedical advocacy) are also borrow from Western, or more specifically English, written sources. For example, trans web forums are full of European and US news, translations of various practical advice including hormonal therapy protocols and scientific articles. Furthermore, the Ukrainian official working group, which is assisted by T*ema, adopted guidelines from the United Kingdom as the basis for new LGR legislation.

Activists engaged with the self-help horizontal networks and state and biomedical oriented activism collect practical and medical information in Western settings, re-interpreting it and adopting it to post-Soviet cultural values that they usually do not critically interrogate. In contrast, political and cultural trans activism adhere to and disseminate foreign theories, ideational views and values, and because of that they are perceived as a threat to traditional lifestyle and the state itself.

The prevalence of specific types of trans activism in each national context greatly depends on the openness of respective countries to Western influences and also availability of external funding. In formerly Western-oriented Kyrgyzstan the institutionalization of trans activism (implemented by Labrys for example) became possible only with the support of Western funding. The same is true for the Ukrainian CSO Insight. On the other hand, self-help online activism was for a long time prevalent in Russia and Russian-speaking parts of Ukraine and Kazakhstan. Cultural activism is the realm of a rather small group of individuals with middle-class backgrounds from richer countries, mainly Russia. Neither activism of type (1), nor (4) is dependent on funding, which arguably makes them more likely to outlive the current foreign funding restrictions at play in some countries. As for the second cluster of activism, those engaged with it occasionally seek Western funding without genuinely subscribing to

Western ideologies, although they often try pragmatically to translate their goals into the marketable language of human rights. Although funding is desirable for them to perform larger projects, it is not critical for their survival.

But perhaps the most important aspect to be highlighted is that post 2010 developments in trans activism, especially derived from LGBT political work and cultural politics queer actions -- coupled with greater visibility of LGB politics -- led trans issues to being perceived as more political. Until then gender identity remained to a large extent confused with sexual orientation in the perceptions of state authorities and the society at large. This is now changing, as demonstrated by the introduction of oppressive legislative initiatives aimed specifically at trans people, especially in Russia. As mentioned above, in 2015 the parliament of Samara Oblast, a region of Russia repealed a local ban on propaganda of homo- and bisexuality because it became irrelevant since the introduction of the federal law. But it retained the ban on propaganda of transgenderism, arguing that it is distinct from what is defined as 'non-traditional sexual relations' in the federal law. Since then, a number of anti-trans bills have been also proposed by Russian parliamentarians, even when they have not prospered. This trend confirms the worst fears of many trans people, who for a long time have been opposing public trans activism, arguing that increased political visibility might trigger more persecution and violence. On the other hand, some activists may regard a temporary spike of transphobia as a necessary evil on the long road towards the acceptance of trans people by their societies.

The dispute cannot be resolved, since gender and sexuality as political issues have generally lost relevance for the Russian population. Since 2014, societal attention has mostly switched from domestic politics to international events such as the annexation of Crimea, the war in Donbass and the Syrian civil war. The Russian government enjoys overwhelming support from the population, with no further need to look for 'internal enemies'. LGBT and trans organizations continue to work and to receive foreign grants through proxy institutions, even if their work has become less publicly visible. Likewise, the conflict with Russia overshadows issues of sexual politics in Ukraine.

To conclude

Post-Soviet states inherited progressive legislation on abortion from the Soviet Union that is increasingly under attack from religious groups in every one of them except for Central Asia. While the conservatives were able to achieve small victories, the legislation generally holds and there is strong public support for pro-choice

arguments. Due to the reality of widespread abortions during Soviet rule, one might argue that even today abortion continues to be perceived and accepted as pertaining to a post-Soviet 'cultural tradition' that is at odds with the new waves of the organized religious conservatism presently attacking long-existing abortion laws.

On the other hand, one can hardly find many precedents of tolerant attitudes towards LGBT people during the Soviet era, except for its very early times that are remembered by no one today. Thus, LGBT issues are more widely considered non-traditional and a corrupting influence of the West. Indeed, the progress on LGBT issues in some states, such as decriminalization of sex between men in the 1990s and early 2000s and antidiscrimination laws in 2010s, was only possible under pressure from European countries and international intergovernmental bodies such as Council of Europe and UN. As soon as some post-Soviet states were able to free themselves from economic dependence on the West, mainly as a result of growing oil prices, they were no longer obliged to adhere to this illusion of tolerance. For these states, with Russia at the forefront, LGBT issues became the integral part of their cultural and geopolitical war with the West and a populist mobilizing tool. A minority of post-Soviet countries that do not wish to align themselves with Russia and do not have sufficient resources of their own, are still obliged to comply with pro-LGBT provisions in order to be eligible for partnership with European states. Geopolitical considerations appear to be the main drivers of LGBT politics, as neither group of countries was able to develop a strong enough LGBT movement in the past 25 years.

As for trans activism, by and large trans communities were formed in the 2000s as separate groups which had little in common with LGB demands. Their activities were focused on self-help during transition, including advice on navigation through the current bureaucratic and medical systems. Subsequently various streams of trans-activism emerged that began challenging the status quo to various degrees, gradually increasing visibility and politicizing trans issues. On the other hand, LGB(T) organizations were becoming more inclusive towards trans people and their needs, which resulted in increased cooperation between trans and LGB movements. As the general public and politicians were becoming more aware of non-heterosexual and trans people, especially after the propaganda bills, they started to perceive them as distinct groups. This led to attempts to persecute trans people, specifically in Russia. However, the wave of public outrage and persecution of LGBT activists appears to have subsided following increased international tensions in the region since 2014.

Any further analyses of the sexual politics examined in this paper must take into account the gradual consolidation of secular and religious conservatism and political authoritarianism not only in post-Soviet countries, but also worldwide. While these regional and global trends may signal more restrictive legislation and additional clamping

down on civil society activism, it is hard, if not impossible to predict what comes next in terms of renewed and creative resistance to these trends.

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