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國際學碩士學位論文

**A Theory of Institutional
Maturation:
The Rise of Marriage Equality in the
OECD and Why Local Norms Don't
Always Matter**

제도적 성숙화와 왜 지역적 규범이 항상
중요하지 않는가에 관한 연구:
OECD에서의 동성간 결혼을 통한 문화
해체를 중심으로

2014年8月

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**A Theory of Institutional
Maturation:
The Rise of Marriage Equality in the
OECD and why Local Norms don't always
Matter**

Thesis by

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Graduate Program in International Cooperation
For the degree of Master of International Studies

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**A Theory of Institutional Maturation:
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Abstract

A Theory of Institutional Maturation: The Rise of Marriage Equality in the OECD and why Local Norms don't always Matter

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Despite the rapidly developing international norm toward marriage equality, why is Same-sex Marriage not on the policy radar in some OECD countries, yet fully codified in others? Is the overwhelming power of local conservative religious and cultural values blocking the realization of the rights to institutionalized recognition for same-sex couples in certain locations? This research looks to statistical data that attempts to measure social changes from around the OECD, to help explain the diversity of legislative frameworks among this group of industrialized nations. It employs a rudimentary quantitative analysis, combined with a comparative perspective to measure the relationship between a newly coined term 'Institutional Maturation' and the propensity for a nation to pass legislative frameworks that recognize the status of Same-sex relationships under the law.

This work draws on the extensive research completed by scholars in the field of International Relations (IR) in developing its theory of Institutional Maturation. It has its base in social constructivist notions of the

mutual construction of state interests. However, rather than focusing on the shape, identity and agency of states, it posits an analysis of the space that sits in between, asking us to consider the importance of the facilitating mechanism for international norms to travel between nation states. It analyzes the contingency of key social processes and how they interact to create Institutional Maturation. Additionally, this work also combines the tenets of modernization theory, democratic consolidation, gender norms, ethnic diversity and seeks to explain the significant impact they have on local law-making institutions in pushing them toward a position of Institutional Maturation.

Institutional Maturation, it is argued, represents a point at which a state's local law-making institutions such as legislative and judicial bodies come to embody an amoral character. Therefore Institutional Maturation, or lack thereof is offered as the contingent independent variable by this study as the major predictor for the propensity of a country to legislate and codify progressive types of legislation such as Marriage Equality.

The quantitative analysis employed in this thesis calculates the relative co-efficient of Institutional Maturation to a country's propensity to pass marriage equality through the construction of two indices. The Institutional Maturation (IM) index was constructed by using key social indicators, which are widely held as authoritative measures in their respective areas. The Propensity to Pass Marriage Equality (PPME) index has been constructed using data collected on the institutional frameworks in

place for the legal recognition of same-sex couples in OECD nations.

Although further analysis in the area needs to be done, initial results show a strong correlation between the two.

Important implications are discussed at the end of this thesis, and as a new concept, Institutional Maturation represents a different level of analysis not yet employed in the search for Marriage Equality internationally and a useful tool in explaining why international norms can still penetrate a locality that seems shackled to conservative practices. Further significant implications of this study point to the important role of Institutional Maturation in predicting the likelihood of future progressive legislations, supported by international norms becoming locally institutionalized, despite being in conflict with the local norm. In this way at least, it seems that local norms don't always have to matter.

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Keywords: Institutional Maturation; Same-sex Marriage / Marriage Equality; International Norms; LGBT Rights; Social Constructivism
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1.0 Introduction

Research Question: Does the passage of progressive types of legislation such as Same-sex Marriage or Marriage Equality depend solely on changing societal norms? What is the role of institutional frameworks in the codification and passage of international norms that come into conflict with the local norms of a particular setting?

Linking International Relations (IR) theory to Marriage Equality may feel like an uncomfortable fit for many within the scholarship. It seems that this sort of analysis may best be left to scholars in the field of cultural studies, feminist critiques and gender studies. However, in 2012 when Barack Obama came out so vocally in support of the rights of same-sex couples to marry (Washington Post: 2012), a window of opportunity opened up that has not been fully explored by scholars in the field of IR. This singular statement has many implications for the study of IR and what it may represent for the development of state interests both locally and externally.

The power and reach of Obama's statement should not be understated. In New Zealand for example, this simple statement was enough to spark internal dialogue that manifested 12 months later as the legal sanctioning of Marriage Equality in New Zealand legislation (Associated Press: 2012). Moreover, other nations quickly followed suit, with France, the United Kingdom, Uruguay, Brazil and Denmark enshrining Marriage

Equality laws in their local legislation (Freedom to Marry: 2014). Why is this significant to the field of IR? Marriage Equality or Same-sex Marriage depending on how one chooses to use the term represents the ultimate in societal transformation. It requires the reconceptualization of society's views on what is accepted as a norm in terms of the make of the family unit. Traditional heterosexual relationships and marriages are established norms in every society around the world (Cherlin: 2014). To allow the legal enshrinement of behavior that is seen as deviant by many cultures, it is argued requires a shift in what is considered a societal norm (Leap: 2004; Altman: 2010; Hunter: 2013).

IR scholarship it seems has a lot to say about norms. However most discussions about norms in the field have centered on conceptual enquiries on what shapes transnational normative behavior and what influences the actions of varying actors. The discussion is often vigorous and examples of the debate also include questions that relate to things like norm emergence, norm entrepreneurs, whose norms matter, their diffusion, their ability to be localized, and even what happens when they come into conflict with local indigenous norms (Acharya: 2004). So with the rise of Marriage Equality and its seemingly diffusible nature to nations within the United States sphere of influence, representing perhaps its lingering hegemonic capacity (which is embodied in their President's remarks), this research looks at the implications that Marriage Equality has for the scholarship that is concerned

with why and how international norms can be diffused from its source to a willing or not so willing recipient.

However, instead of seeking to add another argument or counter-argument to the leading scholars in the field, this research will attempt to carve out a different perspective to the analysis of the effects of norms. It will choose to focus on what kind of institutional conditions needs to exist within a local agent setting to allow for the adoption of an international norm. Therefore this research posits the relationship of institutions, of which it is conceptualized as law-making bodies, such as state legislatures and judicial branches of government, with the ability of a local polity to accept international norms using Marriage Equality as a test case.

The focus of this research is indeed on the role of institutions and how they can be a determining factor of whether a society accepts or localizes international norms. Special attention will be paid to the countries in the Organization for Economic Cooperation and Development (herein referred to simply as OECD). Within the OECD there are a diverse number of countries that have varying types of religious and cultural traditions. There are those like Korea who are well known for their Confucian tradition (Cha: 2013; Sung 2013; Wang: 2005; Duncan: 1994), where the many centuries of evolving cultural understandings of societal expectations make it an open-and-shut case in the eyes of most scholars of a country whose social transformation is trapped within the boundaries of cultural normative practice. Additionally Korea's strict adherence and adoption of Christian

norms many argue have also contributed to its opposition to the idea of Marriage Equality or Same-sex Marriage (Bong: 2008). Also part of the soup mix is a country such as New Zealand, who has a very strong tradition of socially progressive types of legislation codified into its legal frameworks (Social Progress Imperative: 2014) and the United States who suffers from the very real issue of pluralized modes of cultural and religious tradition making consensus on social issues there extremely difficult to reach (Chip: 1997; Olson: 1998; Young: 2002). We also find that there are countries in Latin America who have only ‘recently’ modernized or democratized (Karl: 1990; Hite: 2004), and their societal arrangements also function uniquely to those from countries in Europe, and North America. All of this diversity within the OECD serves to present an interesting point of analysis as to whether there are discernible generalizable predictions that can be made in terms of these countries’ future legislative frameworks.

This research will focus in particular on the issue of Marriage Equality, or Same-sex Marriage, which seems to be *en vogue* within certain OECD countries, yet not with others. The often-held explanation for this gulf in the attitudes toward this sort of legislation is the very fact that diversity exists between the nations of the OECD. Differences in cultural and religious norms in particular have served to exacerbate this gap. This research will challenge this assumption based on a theory of ‘Institutional Maturation’. It will argue that in terms of legislative frameworks, and their ability to offer protection to minority groups, Institutional Maturation is an

important factor that has not been analyzed within the scholarship before. This thesis project will also seek to establish the credentials of its own analysis using a new interpretation of key socialization theories which are constantly coming in and out of flux and are being vigorously examined by the field of IR.

Through the same process of socialization, which has been aptly examined by many in the field (Flockhart: 2006), this theory argues that a nation's law-making institutions develop its own identity. It will seek to explain how this process is reflectivist in nature. That when a country strives to create objectivity within its own institutions in an attempt to remove the moral subjectivity of a nation's law-making institutions, it has already adopted a moral posit. Assuming this position inherently places law-making institutions on a path of its own development toward what has been coined here as Institutional Maturation. Institutional Maturation is a key determinant of whether a country has the institutional capacity to allow for an international norm to develop that can sit alongside a local norm. A local norm does not necessarily have to be defined in terms of its effect on the legislative frameworks. A norm can exist as a societal practice but does not have to dictate the laws and policies of a country, provided that conditions of Institutional Maturation exist. This is the central argument of this thesis.

Institutional Maturation is a concept that can be measured statistically. This study will be concerned with measuring Institutional

Maturation and place its importance in relation to the ability of an individual country's local law-making institutions to pass Same-sex Marriage or Marriage Equality legislation. As was mentioned previously, countries selected for this study are those within the Organization for Economic Cooperation and Development (OECD). At the conclusion of the statistical analysis, further discussions will examine the significance of Institutional Maturation in our understanding of the challenges facing sexual minorities in OECD countries. Further implications for countries like Korea, Japan, Italy and Greece, who apparently display low levels of Institutional Maturation, will also be examined.

2.0 Literature Review

2.1 Assessing the Status Quo

Throughout the OECD there are varying degrees of openness that pertain to the acceptance of sexual minorities in their societal and legislative frameworks. In Korea public awareness of Lesbian Gay Bisexual Transgender (LGBT) communities and their issues is very limited. There have been some recent high profile cases that have begun to influence the views of the public. The symbolic (although legally unrecognized) marriage of renowned Korean film maker Kim Jho Kwang-soo to his long term boyfriend Kim Seung-Hwan has brought to the fore again the discussion around Same-sex Marriage in Korea (Korea Herald: 2013). Recent research shows that attitudes among Koreans in general towards homosexuality in particular are starting to warm. In June 2013 a poll released by the Pew Research Institute in Washington DC on worldwide attitudes to homosexuality showed that the number of Koreans that agreed with the statement “homosexuality should be accepted by society” more than doubled from 2007 to 39%. That was by far the biggest leap among the 39 countries surveyed (Pew Institute: 2013).

The same poll also suggested that in the U.S., 60% of respondents agreed that homosexuality should be accepted by society at large, and in Australia 79% of the respondents also agreed with this statement.

Interestingly enough this showed that there is strong public support for the

acceptance of homosexuality within these two locations, in Australia at least it seems that this support is overwhelming. However, the U.S. and Australia still have not enacted complete Same-sex Marriage legislation. In the case of the U.S. different states have different legislative frameworks, so certain states have been able to enact Same-sex Marriage while others have not. In Australia, the situation is markedly different. At the time of writing and researching of this thesis, there are no states of Australia where Same-sex Marriage is actually codified as a legally sanctioned practice, although a raft of protections for same-sex couples do exist (Freedom to Marry: 2013).

To take stock of legislative frameworks, in Korea there is no anti-discrimination law, which includes prohibition of discrimination based on sexual orientation and gender identity. In Korea moves to have this situation changed have been met with violent opposition. In February of 2013 two Democratic United Party members, Kim Han Gil and Choi Won Shik, introduced draft legislation into the National Assembly of Korea. This bill proposed to ban employers from discriminating against people based on religion, political ideology, educational background and sexual orientation (Lee: 2013). However this proposed piece of legislation was withdrawn again in April 2013. Religious conservatives were particularly vocal against this legislation and went as far as to accuse both Kim and Choi of being closet homosexuals and North Korean sympathizers (Lee: 2013). The failure of the legislative assembly of Korea to enact a law to provide legal protections for its sexual minorities has been labeled as a severe complicity

by the state in the violation of the human rights of sexual minorities (Human Rights Monitor Korea: 2013).

Yet Korea's situation contrasts sharply with certain other countries within the OECD; Portugal, Spain and Chile, countries that share similar democratic development stories to Korea are much more open to the idea of Same-sex Marriage or Marriage Equality than Korea or its neighbor Japan. In fact Portugal has the unique distinction of being one of the few nations in the world that codifies anti-discrimination behavior on the basis of sexual orientation in its constitution (McNeice: 2014). This is a direct institutional framework, which serves to nullify the power of more conservative groups in Portuguese society to be able to limit the conferring of state legitimacy to same-sex relationships.

The lack of institutional and legislative protection for sexual minorities has mostly been attributed to the prevailing religious and cultural customs of modern Korea. The prevailing orthodoxy seems to be that due to the highly engrained sense of Confucian tradition that penetrates and informs the decision making process of the population in general, the idea of granting rights of citizenship and equal status to sexual minorities has been characterized as an extremely foreign idea (Bong: 2008). It seems that the entire scholarship is united in its description of what constitutes Korean attitudes to society in general. Hierarchical, patriarchal, based along lines of patrilineal privilege and newly infused with an extremely powerful Christian population (Moon: 2002; Moon and Kim: 2002; Kim and Im:

2001). Korea it appears is stuck in a cultural and religious time lapse that it must allow to run its course. In other words, the only way out of this trap is to allow for the passing of the old guard to the new. Similar logic has been used to describe the situation in Japan and in many Eastern European states (Freedom to Marry: 2014).

But it is argued here that this view is too limited. The first objection is that there seems to be an assumption that there is a timeline; an implied process that occurs that challenges the status quo of which seems to evolve naturally. However, as we have seen in other settings, assumptions in relation to development over time does not necessarily erode traditional values (Inglehart and Baker: 2000). For Korea and other conservative societies it is assumed that the cultural and religious norms will change over time. But a problem with this view is the example of Spain Portugal and Chile. In Spain's case in particular there is still a remarkable religious presence. Spain was once a Catholic powerhouse that embarked on conquests based on religion, and this sort of religious history is not easily forgotten. The majority of Spain's population is Christian. The percentage of the population that identify as Christian in Spain is higher than that of Korea. 69% of Spaniards are Catholic (Centre for Sociological Research: 2014). Yet in Korea religious groups have more ability to influence policymaking, as a higher percentage of Koreans believe that religion is important to their lives; 54% in Korea compared to 32% in Spain (World Values Survey: 2014). The question then is not one that can be settled

simply by citing the prevalence of a norm within a society, what is it that allows these dominant norms to be given precedence by its society and reflected in their legislations? And why is it that presence of a large religious affiliation in Spain is not impacting on the secular look of its society?

In Spain public support for acceptance of homosexuality is 88% (Pew: 2013), yet it has a strong catholic tradition. There is a mechanism that has nullified the power of this religious norm to be able to dictate policy. This power or force it is argued here cannot be attributed to mere social coincidences or progressive views. Institutions play an important part in this equation, as will become much clearer as this research continues its analysis.

The other objection to the view of religious and cultural norms being the sole determinant is that it relegates the realm of domestic individual interest aggregation to a position of exemplified difference to that of growing international pressures. These pressures do affect the way in which interests are constructed, modified, challenged and in other cases adopted into national legal frameworks (Burchard: 2006; Tsygankov: 2000). No internal social views and processes can be isolated from outside norms and ideas. Yet those who favor the explanation of normative understandings of identity and construction tend to focus on the way in which norms evolve and change to incorporate new understandings of society. In other words the focus in the scholarship has been extensively and almost exclusively on how norms are changed within a society. Is it not conceivable for there to

be enough room for multiple norms to coexist within a society at the same time that are ideologically opposed to the other? There is a great suspicion held by this research of the existence of a mechanism that functions to prevent one norm from being able to dominate another.

Religious groups are an important contingent part of the landscape of a lot of OECD nations. And the reason why they are so powerful in shaping societal norms is that religious groups, like others often form political organizations in reaction to perceived threats, and self-protection is potentially boundless territory. It extends from resistance to anticlericalism and opposition to concrete policies adverse to religion, to warding off the encroachment of a dominant culture seen as inhospitable to faith and corrosive of religious community (Rosenblum: 2007). Same-sex Marriage represents this threat to religious groups in different countries. Another interesting point is that the relative power and influence that religious groups enjoy in Korea can be put down to the way in which religious norms carry a political utility in Korea (Noll: 2005). This is an important point, as often the societal impact of a norm is considered the defining factor of the adoption of a particular norm. However this can limit the discussion that should be had on what this provides in terms of political utility.

Religion and politics are recurrent themes in the history of political thought, of course. Debates on toleration and free exercise of rights, the parameters of separation of church and state, and arguments for and against the severe constraints imposed on religious discourse by philosophic norms

of public reason (Rosenblum: 2007) have all been readily discussed in the past. What has not been examined in IR though is what is it that gives power to religious groups in our modern setting to persist in certain localities, to be able to control official state legislation. Surely the power of religious norms to be able to dictate policy is based on the relative power that a society's institutions allow them to have, just like any other political organization. This understanding however and previous discussions has left this issue to the realm of sociology and religious studies to debate extensively. Yet for IR in particular, the issue of institutions, the way they are shaped and whether they have a distinctive identity or not means that they affect the ability of outside norms to share space with a local norm in a particular location.

2.2 The Dichotomy of Morality and Institutions

It seems that in IR the focus on the study of institutions is placed squarely on their role in providing legitimacy for state actions. Often it is a given that institutions are mere extensions of the state apparatus. Therefore they are constituted and developed in response to the state's aims and or need (Letki: 2006; Tyler: 2006).

It has been argued that efficient and impartial institutions provide a stable and predictable normative and organizational context for individuals 'formal and informal interactions with fellow citizens and with the institutions themselves. Quality and predictability of institutional setting positively shape individuals' community-oriented attitudes, while particularistic, corrupt and clientelist policies undermine them (Hibbing and Alford, 2004; Letki and Evans 2005; Rothstein and Stolle: 2003). Good government it is said generates legitimacy and confidence among its citizens, but also it assists the development of social solidarity and collective identity (Huyseune, 2010).

This somewhat positive characterization of the role of institutional frameworks seems to place them centrally in the mediator role that we accept as a given trait of all domestic institutions. The statement that 'quality and predictability of institutional settings' are important in shaping the attitudes of an individual at a domestic level implies the supposed power a robust institution has in being able to affect the norms of a local setting. This is very important for our discussion. Institutions in this setting have

already been characterized as an individual entity capable of modifying the preferences of a domestic setting. Subsequently the claims made by others that ‘corrupt’ and ‘clientelist’ policies undermine the power of institutions are also important. It implies that poor processes that are put in place do indeed damage the credibility of an institution. Therefore it can be argued that poor institutional practices hamper the ability of an institution to confer legitimacy to a state actor. And this then becomes important because if one source of a state’s power to monopolize authority is contingent on public acceptance of widely perceived to be ‘impartial’ and ‘robust’ state institutions, then this becomes vital to its ability to gain legitimacy (Kim: 2005). In a democracy surely this must mean that it is in the state’s interest to infuse their domestic law-making institutions with credibility.

If a nation-state, who has tracked a path of democracy, chooses to engage in corrupt and opaque domestic policies, it in effect has damaged its own credibility. By default it has also undermined the ability of its law-making institutions to perform its role as facilitator. In Korea this has been previously recognized by scholars who argue that Korea’s lack of ‘democratic consolidation’ is often affected by the public’s perception of the corrupt action of its politicians (Kim: 2005). Whether justified or not in their criticism, what this does is it creates a situation where state institutions attempt to regain credibility by enacting more transparent processes in their actions. This process is not amoral, and not as easily hijacked in a democracy due to the complication of conceptions of power (Hurrell: 2004;

Barnett and Duvall: 2005). This represents an institution's direct attempt to become more 'morally sound'. By highlighting the powerful nature of elites to capture institutions ability and judicial outcomes to their ends, the less than 'fair' outcome has now created public discontent. The ideal normative practice here is good governance and transparent monitoring of policy decisions. By being in conflict with the norm it has weakened the state's legitimacy in the eyes of the constituency (Underhill: 2003; Derouen and Goldfinch: 2012).

But how has this affected the domestic law-making institutions? Very few would argue against the notion of an enhanced promotion of improved accountability occurring as a direct result of a 'learning-from-your-mistakes' type of logic.

An argument could be constructed attributing the institutional modification here to the idea that the behavior of policy elites have been modified by this process; they will now choose a more transparent path, therefore it can be conceived that the more robust institutional frameworks are a result of them inflicting their will on to the institutions. However, the argument favored in this discussion is that the real effect is organic and helps to create a separate identity for the institutions themselves. To follow a liberalist track, the shelf life of political elites pale in comparison to the lingering presence of institutional frameworks. This is of course an analysis usually limited by IR scholars to the domain of multilateral institutions involved in the preservation of peace in the realms of structural anarchy that

apparently characterizes the state system (Keohane: 1982. 1990; Barnett and Duvall: 2005). But this logic can be applied to all institutions whose primary function is to bestow legitimacy to an agent in any framework. Therefore one could conceivably argue that domestic law-making institutions, which represent the greatest longevity in democratic countries, must be a reflection of this.

Thus the long lasting effect on the domestic law-making institution is one of an amoral pursuit of what is a perceived moral goal. This is the dichotomy in morality that afflicts institutions. In an attempt to become amoral, an institution is actually by default pursuing a perceived morally superior position. This process is reinforced by a desire for the government to seek legitimization of its power over the state, and reinforcement of its position over the domestic polity (Mowitt et al: 1980; Foucault and Rabinow: 1984).

This is a process that is affected directly by social processes that have been responsible in further enhancing institutions' claims to amorality within a highly normatively defined space. The study of how these normative claims emerge, and are successful in modifying the identity of local agents is not the focus of our analysis however. As will be clarified through this review though, a key argument of this research is that through the successful implementation of certain social changes, following a variety of social processes, the ultimate in social transformation can become possible. As mentioned previously, the passage of Marriage Equality or the

sanctioning of Same-sex Marriage by the domestic law-making institutions of a nation-state represents the manifestation of this tremendous social change.

2.3 International Norms, Agent-Structure Dilemma, Institutional Maturation and Marriage Equality

How does an idea become a norm? What are the consequences of international norms colliding with local norms? How does a norm modify the behavior of the nation-state? Structuralists and Realists alike believe that international norms take a back seat to the pervading influence of material concerns and structural limitations (Waltz: 1979; Mearsheimer: 2001). This is a claim that has been countered by others such as Alexander Wendt who believes that the structure of anarchy is what states make of it (Wendt: 1999). Central to the constructivist critique is the idea of identity and the forces that shape the identity of the local agent (Katzenstein: 1998; Onuf: 1989). Thus the field of international relations cannot be analyzed merely through understanding the constraints of structure and world disorder.

The importance of international norms to our discussion cannot be emphasized enough, a central part of this research focus is based on our understanding of how international norms are first generated, transmitted and then localized by domestic actors. Finnemore and Sikkink have publicized a widely accepted theory of norm transition. They believe 'Norm entrepreneurs' first generate international norms, then, these entrepreneurs seek the establishment and legitimization of their norm via many channels including international organizations. Framing their issue to try and reach a broader audience. In this stage, states choose to adopt these norms based on

domestic political reasons. If enough states begin to adopt this norm the norm can enter into the 'cascade' state. This is where other states begin to adopt these norms due to international pressure. The motivation seems to be to gain increased domestic legitimacy through a process of conformity and approximation to other hegemonic influences. Over time these norms become internalized so much so that it can be classified as localized (Finnemore and Sikknik: 1998).

Many scholars have focused their analysis on the process of norm localization or as Finnemore and Sikknik put it, 'Internalization'. Localization describes a complex process and outcome by which norm-takers build congruence between transnational norms (including previous norms institutionalized in the region) and local beliefs and practices. In this process, foreign norms, which may not initially cohere with the latter are incorporated into local norms. The success of norm diffusion strategies and processes depends on the extent to which they provide opportunities for localization (Acharya: 2004). This process of localization can also depend on domestic political, organizational and cultural variables in conditioning the reception of new global norms (Risse-Kappen: 1994; Cortell and Davis: 1996; Legro 1997).

The discussion surrounding international norms and their diffusion is fascinating, however its focus seems to be on the contingent factor being either the predisposition of the local agent's interests and receptiveness to an international norm, or the power of the norm itself to be able to penetrate

through the veneer of localized normative behavior. Both these approaches are provocative and offer a lot of potential points of discussion. This discussion will not add its voice to that particular discourse, also there is not much wrong with this focus on the process of norm transition, internalization and codification, it has been framed in a reasonable and rational manner. Yet it is the belief here that the discussion can still be taken further. External and internal pressures that go into the formation of a new international norm, the possibility of its adoption and localization from within the domestic realm is having a distinctive effect on the identity of domestic law-making institutions. This idea is made clearer when we examine the agent-structure dilemma in IR.

In the analysis of state behavior a common question has troubled the scholarship of late: which should be given primacy, the structure or the agent? Are structural realists like Morgenthau, Waltz and the like correct in giving priority to structural factors? Are external conditions the most important determining factor of state behavior? Or are theorists like Wendt, Kratochwil and the ever-emerging group of social constructivists' right to highlight the importance of the agent and its ability to construct and affect our understanding of state concerns and as a result modify the structure by default?

Colin Wight, who touches on some key ideas important to our understanding of mutual structuration, is an important point of reference here. Wight draws on ideas that other constructivists highlight about the

agent structure dilemma. His analysis of structuration theory in particular, credited to Wendt is important for us, as it forms the basis of our understanding of the agent-structure dilemma, as both constitutive and descriptive. Wight points out that the scholarship has treated the agent-structure dilemma in isolation. In other words, they treat structure and agent as two separate autonomous entities, and therefore reducing the agent-structure relationship to one that is merely a set of processes (Wight: 2006). He believes that this in itself is reductionist. Wight's work is significant here, as he goes to great pains to avoid the somewhat adversarial nature of the problem and treats the issue of mutual construction and structuration as something that should not be concerned with outcome. They are intrinsically linked, therefore cannot and should not be treated as such.

So what is the significance of this to Institutional Maturation? As alluded to previously, Institutional Maturation is a process by which the local law-making institutions of a state, undergoes a transformation in which it moves toward a position of amorality. Once a state's law-making institutions such as legislative bodies and judicial arms reaches Institutional Maturation, the possibility for the adoption of an international norm locally, despite the reality of it being in direct contrast to the local norms and practices, become much higher.

Much like how Wight and Wendt refuse to accept the agent and structure as isolated autonomous entities, and that they are mutually constitutive and act to modify each other, It is asserted here that the same

thing occurs when we look at law-making institutions and the kinds of decision that they move to adopt. This process is affected from both the outside and the inside. It is mutually constitutive. Many will ask the question then, of how does this differ from norms transitions and the approach to the agent-structure dilemma.

The agent structure dilemma has tended to focus on a certain kind of agency. Social outcomes are often focused on people. Wendt focuses a lot on the social aspect that has been left out of the scholars' approach to issues of state behavior. Wight does this as well. The unit of analysis has been said refers to the object of enquiry. Constructivists have highlighted the agent in its different aspects. However, the agent it is argued, or in this case the nation state is based on the relationships of people (Wendt: 1999). Reduced to its most basic form, constructivists it can be said attempt to bring the interrelated nature of different societal relationships back into the IR equation.

Society is made up of social relationships, which structure the interactions between these purposeful actors (Wendt: 1987). Therefore it seems that we can deduce from this sort of reasoning, that the way in which we analyze the relationship of these actors to the adoption of cultural normative frameworks needs to be focused specifically on the nature of this relationship itself. So in terms of norms transitions, it can be said, the scholarship highlights more the transformative nature of an international norm. Additionally this position implies that a norm is only a norm if it is

reflected in the legislative framework of a particular setting. However, this in itself does not paint an entirely holistic picture. An international norm, it is argued here, does not necessarily need to be internalized, or localized for it to be institutionalized. A country's institutions merely need to have the capacity to be able to allow coexistence of conflicting norms. Therefore what is actually missing is an analysis of the way in which institutions can nullify the power of a local norm. The understanding of a norm from a legal perspective then is too narrow. A societal norm can in fact co-exist within a state apparatus that sanctions the rights of differing demographics to seek legal protection.

Social processes aid the adoption of an international norm by a local agent, this is evidently important; indeed the evidence is overwhelming in support of the ability of a particular norm to find fertile ground where it is most pliable and adaptable to local normative conditions (Finnemore and Sikkink: 1998; Acharya: 2004; Risse-Kappen: 1994; Cortell and Davis: 1996; Legro 1997). But is it possible for an international norm that conflicts with that of a local custom to co-exist within a local agent? The position is advanced in more detail here.

Firstly this research posits the belief that an international norm can sit alongside a local norm. This is due to the institutional frameworks that are in place for law-making institutions. Factors that occur over time represented by differing process are what enable institutions to develop. Beginnings with the initial process of modernization, a series of social

factors are set off that act to not only modify the 'interests' of the agent, but also the structural arrangements of the agent itself. These structural arrangements are also affected by external pressures, much like what has been highlighted by those who favor the structural approach to defining state interests; however these external pressures, coupled with internal social processes produce externalities that modify the actual apparatus of the state and its operations. A state's law-making institutions in particular are transformed, from mere facilitation role, to one of moral legitimization, and begin to embody its own identity.

A state's legal apparatuses and its legislative bodies will assume a morally superior posit, which means that an international norm may indeed be adopted despite the prevailing view of the majority in a given setting, as this movement toward perceived amorality takes away normative justifications for officially sanctioned behavior in a local polity.

Therefore it can be surmised that although the widely held views of conservatives is that where there is a lack of legislative support for the realization of Marriage Equality legislation, it can be explained by the direct confrontation with local normative understandings of appropriate societal constructs this presents, the contention here is that the local norm does not always have to matter. Provided, of course, that a nation's law-making and law-distributive arms have reached the point of Institutional Maturation.

As a concept, Institutional Maturation differs from those who highlight the ability of an international norm to be internalized. Finnemore

and Sikknik quite rightly focus on this aspect of international norm adoption and internalization, placing its contingency for internalization and adoption in the space of a competitive local and international environment (Finnemore and Sikknik: 1998). But the state is being treated as a mere objective and seemingly lifeless apparatus in this sense. As has been mentioned previously, this is not possible, as the state apparatus is being affected by social processes, which is attempting to infuse it with a moral character. Its sanctioning ability or the shape of its power is not based on local agents directly imposing their preferences. Rather, in an attempt to impose their preferences, this act has modified the power, scope and capacity of the sanctioning mechanism of the local law-making institutions. Each action whether negative or positive, pushes a state's institutions toward Institutional Maturation.

Although the focus in IR theory that relates directly to norms transitions tend to zero in on the ability of a particular norm to be internalized and localized (Finnemore and Sikknik: 1998; Archaya: 2004), the argument presented in this chapter is that this represents one side of international norm transition. An international norm can indeed be adopted in this manner; by a local agent in the form of the nation-state through the process of internalization and localization. However, the problem here is that the path of adoption seems rather linear and dependent on local norms themselves being changed. The question that this research is more concerned with is, how do the interactions of societal agents modify the

identity of local-law-making institutions? In particular is there a discernible pattern that can be identified to show us how institutions in this case develop their own identity? And in the end, do local norms really matter when we look at the case for Marriage Equality in the OECD? The answer to this question so far can be said to be that they matter as evidenced by the Norms Transitions Theory advanced by Finnemore and Sikkink. But what is also important is whether domestic law-making institutions have reached the point of Institutional Maturation.

Institutional Maturation is not a new norm in our conventional understanding, as it does not seek to establish a new understanding of society; it is a byproduct resulting from the battle of existing norms and new ones that attempt to penetrate societal understandings and become normalized. It is a real phenomenon, and it is the independent variable in the propensity for a local law-making institution to pass protective forms of legislation for minority groups that this research attempts to highlight.

2.4 Modernization Theory and Institutional Maturation

The central claim of modernization theory is that economic development is linked with coherent and, to some extent, predictable changes in culture and social and political life [...] Industrialization leads to occupational specialization, rising educational levels, rising income levels, and eventually brings unforeseen changes-changes in gender roles, attitudes toward authority and sexual norms; declining fertility rates; broader political participation; and less easily led publics (Inglehart and Baker: 2000).

For the purposes of our discussion it seems evident that modernization has a major role to play in the positioning of the rights of sexual minorities.

Modernization theory posits that industrialization produces pervasive social and cultural consequences, from rising educational levels, which lead to changing gender roles (Inglehart and Baker 2000).

But modernization theory has been severely undermined by the scholarship in recent years. The connection between industrialization and economic development to social and political changes has been well investigated as well as challenged within differing social science scholarship. Hamilton for example argues that the seemingly ‘universalization’ that is inherent to modernization theory is very flawed. He claims that although capitalism has become an almost universal way of life, civilization factors continue to structure the organization of economies

and societies: “What we witness with the development of a global economy is not increasing uniformity, in the form of a universalization of Western culture, but rather the continuation of civilizational diversity through the active reinvention and reincorporation of non-Western civilization patterns” (Hamilton: 1994). Critics of modernization theory argue that there are cross-cultural variations in the way in which capitalism is organized and production processes are arranged (Di Maggio 1994; Guillen: 1994).

The critics here are arguing that modernization theory’s claim toward a ‘generic-ization’ of values and preferences due to economic growth is an inadequate explanation to account for persisting differences in cultures and regimes that are posited in the shape and interests of individual actors (Arat: 1988; Blaney and Inayatullah: 2002; Dwight: 1986). The perspective taken here in this study though, is that this is actually an important part of the agent-structure dilemma. This chapter aims to complete the analysis of modernization theory using both its proponents and critics arguments and identify its importance to our theory of Institutional Maturation.

The tenets of modernization theory in its basic assertions claim that change arises from industrialization that can be attributed to greater autonomy exercised by more economically independent citizens (Inglehart and Baker: 2006). This logic does have a sound basis; however what we can also infer from this is that the resulting differences in outcome, which is often ignored, is the role of power and the associated hierarchies that are

part of this process. This is actually reflected by diverse cultural and normative frameworks in differing settings. It does not necessarily have to undermine the basic tenets of modernization theory.

The utility of culture and religion is an important determinant of how an agent's interests are shaped by local power elites (Cunningham: 1999). It is true to say that domestic cultural arrangements or normative views of societal existence are still extremely important to the way in which a nation-state arranges its legal parameters on a domestic level (Lebow: 2009); so too is the process of modernization in providing greater opportunities for individuals to be able to affect the agenda setting process at a domestic level. This is reflected in the nation-state's preferences on the international stage. Both of these approaches are highlighting the nature of process and its ability as well as limitations in affecting the identity of the local agent.

The objection to this analysis is not that these approaches are intuitively or empirically incorrect. Rather, their focus is binary and therefore limited in its reach. By focusing on one factor being a greater determinant of identity, this adversarial approach relegates one factor to being subservient to the other. The focus is on how the agent is modified by the structure and how the structure also modifies the agent. A mutual construction of identities then is reflected in the agent and structure. This approach implies then that the 'in-between' mechanism operates merely in a facilitation role. Often constructivists highlight ideational factors, the

differing sets of values that are both constructed from outside and within (Wendt: 1999). But this approach merely relegates the role of domestic law-making bodies to that of an unaffected facilitator. Its resources therefore are empowered and stripped by the dominant domestic agent's interests in an attempt to impose their will on the state. However, this study argues that these processes do not operate without any cause of externality on domestic law-making institutions themselves. Through all these processes, including the modification of interests due to industrialization, a greater sense of independence of the institutions themselves must be occurring.

This is what we base modern judicial systems on. Common law principles are based on the idea of precedent, and legally binding decisions based on normative constructions of interpretation of legislation (Akanmidu: 2001; Evans 1982). But what the theory of Institutional Maturation believes is that this sort of modification occurs unwittingly through modernizing processes on the legislative law-making institutions of a nation-state as well. Not just to that of the judicial branch of government. The role of law-making institutions, in this sense then, is to function as an amoral set of precedent modified arrangements, which confers legitimacy on state action. This role means that it is naturally infused with an identity of its own that can be measured by varying social processes. One is also able to argue that these social processes, represented by legislative changes, are capable of imparting their will for social transformation on these institutions in two ways. Firstly by capturing the will of the state by force

through an empowered agent (McSweeney: 1999), or by finding the identity of domestic law-making institutions as a-moral. This state of identity attributed to a domestic law-making institution is what leads to Institutional Maturation.

Once a nation's law-making bodies both distributive and legislative reach a point of Institutional Maturation their institutions become a safety net against improper practices including any laws or policies that may undermine the protection of rights of minorities. In particular human rights realization and preservation being a primary informer of its practices.

And to continue with the example of human rights, its emergence as an international norm has been a relatively recent phenomenon. It seems that human rights are now in fashion. This was not always the case. In the past, a focus on human rights was seen as unnecessary. Advocating human rights was once associated with the weak or idealists (Shelley: 1989). Its development as an international norm can be explained by the fact that it has gained utility for political elites. Again we choose not to focus on this aspect here, rather than the power of this norm being the sole determining variable, the argument here is that Institutional Maturation is what has allowed this norm to be instituted and sit alongside local norms in particular settings.

To place this in an everyday setting we can look again to the situation in Korea. How is it that data from the World Values Survey supposed that most Koreans accept human rights as a norm, but there are no

institutionalized rights for minority demographics? According to World Values Survey data, over 70% of Koreans believed that people in their society respected human rights (World Values Survey: 2014). Yet a basic anti-discrimination law does not exist in Korea's legislative framework. The missing piece of the puzzle here is Institutional Maturation. In Korea the lack of Institutional Maturation is allowing the conservative block the power to dictate legislative terms for all. There is no institutional mechanism in place to allow for the codification of such rights. A country that has reached the point of Institutional Maturation will be able to protect minorities against the prejudices of a localized norm.

In other countries like the U.S. for example Institutional Maturation it can be intuitively assumed has not reached the level required to allow for the complete passage of Same-sex Marriage and legislation of the type. The success of certain states in some cases can be attributed to the localization process or internalization process that Finnemore and Sikkink highlight, but at the same time, immature institutional development prevents the complete codification. Until this fully occurs, the issue will not be completely codified and settled. Meanwhile in more progressive countries like those of Western Europe and New Zealand in the Southern Hemisphere, their high level of Institutional Maturation is what allows for the codification of these kinds of legislation.

The importance of modernization theory to Institutional Maturation is that its basic tenets are what allow for the development of social

processes in the first place that initiate the first phase on Institutional Maturation development. These social processes are not always even, discernible, or predictable. But that is beside the point. The first step to social transformation is the enablement of a populace to begin to express their views to the state. The development of the public sphere is what occurs next, and depending on the trajectory of a nation-state (democratic, communist, authoritarian, fascist) social processes that will modify the identity of a nation state's domestic law-making institutions have begun.

2.5 Why Democracy Matters: The Road to Institutional Maturation?

Democracy as a concept is not one that is easily settled on in terms of a distinct definition. The definition of democracy and what constitutes a valid democracy is again a question that this discussion does not seek to settle in any definitive form. However, despite the fact that there is no agreed consensus of what democracy can be consistently defined as, there does seem to appear to be some agreement at least on what can be considered democratic ideals. Aside from the basic tenet that democracy at large refers to rule by the people, key models of democracy have seemingly emerged. They may be summarized as *electoral*, *liberal*, *majoritarian*, *participatory*, *deliberative* and *egalitarian*. Each represents a different way of understanding what ‘rule by the people’ means (Coppedge and Gerring: 2011). What is examined here is why democratization, its adoption and consolidation as a mode of government, is an important precursor to Institutional Maturation. Of which it is said here to be the precondition for an international norm to gain sanctioned institutional status when it lies in opposition with a localized norm.

Important to this discussion in particular is the concept of a liberal democracy. A liberal democracy it has been stressed highlights the intrinsic importance of transparency, civil liberty, rule of law, horizontal accountability, and minority rights. These are seen as defining features of democracy, not simply as aids to political competition (Held: 2006;

Shapiro: 2003). A liberal democracy interestingly implies freedom by definition. However, it takes a negative view of political power insofar as it judges the quality of democracy by the limits placed on government. Its principles and procedures must be established so to ensure that rule by the majority does not result in the oppression of minorities or the loss of individual liberties (Coppedge and Gerring: 2011).

Based on this definition of liberal democracy, it can be said that in order for minority groups to gain legal protection, in a sense, the type of government that a country needs to have is a liberal democracy. In a liberal democracy minority rights are based on the idea of liberty and the freedom of a person to express their individual identity. The pluralist nature of a liberal democracy seems to lend itself toward the concept of Institutional Maturation as has been outlined previously. In particular the sentence that posits democracy's 'principles and procedures must be established so to ensure that rule by the majority does not result in the oppression of minorities or the loss of individual liberties', seems to embody this idea of 'a-moral' institutions that the Institutional Maturation concept exemplifies. However the weakness of this analysis is that it reduces an institution's shape and identity to a mere extension of a societal group's preference. This is not adequate to account for Institutional Maturation. The reason being is that this relies on a logic that implies a direct decision making process that is determined by the masses. Therefore in order for a nation's law-making bodies to be able to make more amoral decisions, it relies on the will of the

people of the day. This kind of logic favors the arguments that have been advanced by those concerned with the process of localization and norms transitions. Institutional maturation as a concept operates outside these parameters. The identity of local law-making institutions is organic and independent from the preferences of individuals within a liberal democracy. To make the point a little more concisely, the institution's identity endures, but people's preferences change. Therefore democracy matters as a modifying process, as opposed to being a deterministic outcome.

Some would suppose then that this sort of logic strays very closely to that purported by supporters of a deliberative model of democratic institutions. The deliberative model focuses on the process in by which decisions are reached in a polity. A deliberative process is one in which public reasoning focused on the common good motivates political decisions in contrast with emotional appeal, solidary attachments, parochial interests, or coercion. In this conception of democracy, aggregation of interests is not enough. There should be respectful dialogue at all levels from preference formation to final decision among informed and competent participants who are open to persuasion (Dahl: 1956; Przewoski et al. 2000). Some political institutions have specifically deliberative functions, such as consultative bodies (hearings, panels, assemblies, courts); polities with these sorts of institutions might be judged to be more deliberative than those without them, but the more important issue is the degree of deliberativeness that can

be discerned across all-powerful institutions and among the citizenry (Coppedge and Gerring: 2011).

Although it seems more useful to look at democracy from its deliberative functions it still is not enough to account for Institutional Maturation and its form of which is advanced here. A deliberative form of democracy still highlights the ‘transformation’ of private preferences via a process of deliberation (Held: 2006). This again runs similar to the logic used by scholars in IR that highlight the transformative nature of an international norm on an individual agent. Institutional Maturation goes beyond this, and comes at the question of democratic institutions from a place of hybridity. The process of deliberation highlighting transformative natures of arguments and rational, meanwhile a liberal democracy chooses to highlight pluralist existence. Both are part of a thriving democracy. However more importantly both are important to the way in which Institutional Maturation develops the capacity to address multicultural, religious, and ethnic group claims over the state. This is more similar to what many have termed ‘values pluralism’ (Kymlicka: 1995; Parekh: 2000; Barry: 2001).

To illustrate the importance of this idea, we shall return to the example of Korea. First, due to a lack of democratization consolidation in a truly liberal sense, Korea has not been able to develop legislative frameworks that provide protection for minority groups. This is evidenced by the fact that there is no antidiscrimination law in place at present, which

can allow for the development of a pluralist society; but more importantly it is not the outcome or lack thereof that this theory of Institutional Maturation is concerned about. Rather it is focused on the implications of process. In particular, despite the inability for laws to actually be passed, the argument is that through this process, law-making institutions will begin to modify and slowly it will come to embody its own separate identity. If we look at the numerous attempts by Korea's lawmakers in the past to implement an anti-discrimination law, one will be able to see that laws do not usually have an easy passage unless they are introduced into the house as an official policy of the governing party. For this path to be utilized then, a process of internalization and localization favored by pre-eminent scholars in the field must take place.

However, the rejection of a private member's bill is also important in this case for a variety of reasons. It is important to remember that each time this sort of proposed law is introduced it brings the issue to the fore in terms of public discourse. In terms of practice this can have the effect of raising awareness, which can help to shift public attitudes toward minority rights and their protection. A function associated with both liberal and deliberative modes of democracy. However, the more important point here is that this constant jostling for position between conservatives and liberals, whom are more likely to favor the progression of these types of legislations, is in fact producing an effect on local institutional frameworks. This is how democratizing forces aid Institutional Maturation. Eventually a

nation's institutions through the process of democratic participation in this instance, through democratic processes more specifically, are affecting the ability of a country's institutions to be able to set their own sense of identity through the establishment of certain legal precedents. This does not have to result in the change of a norm within the populace, but the institution banks the experience, and it becomes part of its identity irrespective of the outcome of the debate.

The point here is not to diminish the importance of democracy to societal shifts in makeup and normative practice. Contrary to this, our discussion in this chapter has tended to take the position that it is extremely important. The goal is merely to highlight what is lacking in the current analysis of democratic processes. In this sense, there needs to be a focus on what it means for local institutions and the identity it takes on. Democracy itself is also not enough to guarantee that Institutional Maturation will become a possibility. There are other contingencies that need to occur within a society that relate to democratic practice and are important to track before a country's law-making institutions enter an area of Institutional Maturation. Two very important factors need to also be considered which this review will deal with next, changes in society's ethnic makeup, and its view on traditional gender roles. Both are contingent and work together with democratic forces to move a nation closer to Institutional Maturation.

2.6 How Diversity Matters: Civil Society, Gender, Ethnicity and Institutional Maturation

The public sphere is an essential component of socio-political organization because it is the space where people come together as citizens and articulate their autonomous views to influence the political institutions of society (Castells: 2008)

Conceptions of civil society are often framed from a position of pluralism. It is a place that exists between the state as an institution and the people as a collective (Castells: 2008). It has been denoted as a network for communicating information and points of view by Habermas (Foley: 2003). Even in this rudimentary understanding of civil society, a basic concept that is being articulated relates to the idea of free promotion of interests. This is related specifically to democratic ideals like freedom of speech and the ability to express one's identity. Matters of identity formation lie contingent with great potency in relation to Institutional Maturation for reasons that will become clearer as this discussion moves forward. But first it is important to understand how civil society, currently being affected by global forces, supposes the possibility of the recognition of diverse forms of identity (Aracki: 2011; Schlesinger: 2002). This is something particularly pertinent to us when we examine issues of persisting conservative cultural and religious norms and values within OECD nations.

South Korea has witnessed the growth of civil society since the 1980s, especially after the inauguration of a civilian regime in 1993. While political conditions characterized by military authoritarian rule and national division suppressed the development of civil society in the midst of the emerging capitalist economic structures, political democratization has allowed not only for the expansion of civil society, but also for its qualitative transformation (Moon: 2002). The significance of this is that as previously mentioned civil society in Korea, much like democracy has had a rather short life span. The qualitative transformation of civil society is still ongoing (Moon: 2002). Others argue that civil society and democratic political culture have not developed, due largely to an authoritarian Confucian political culture (Kim: 2001).

South Korea is not the only country within the OECD to have experienced authoritarian rule. The same can be said of certain South American countries, Chile is an example of a country that has extensive experience of authoritarian rule, and like South Korea, is a member of the OECD. Chile in contrast to Korea however seems a lot closer to codifying recognition of same-sex couples and the rights of sexual minorities in their legislation (McNeice: 2014). Chile also has a strong tradition of Roman Catholic affiliation and adherence to its teachings by the general population (McDonough: 1999). The power of the localization process here should be noted. Yet, it does not paint a complete picture in this sense. Institutional arrangements are obvious factors that need to be examined further.

And why civil society matters in this situation, is that civil society is an intermediary sphere between the economy and the modern state. It is an aspect of the superstructure historically differentiated from political society that is, the modern state in which the dominant group enjoys spontaneous consent of the masses of the ruled (Sholar: 2002). Additionally civil society it can be said is not only an intermediary between state and economy; it is also the intermediary between people and institutions. Therefore the shape of our society's institutions and their identities are modified, engaged and reinforced by this intermediary force (Arthur: 1999). This process obviously means that our conceptions of what can be considered a gender norm can be transformed as a locally accepted normative understanding. Once again this process is favoring a transformational aspect that can be employed in the push for recognition of gender equality and rights.

The significance for us though, is not that civil society is a space in which gender norms can be challenged, but the fact that this intermediary form exists, we now have a significant mechanism impact occurring on the identity of our local law-making or legally sanctioning institutions. The ability to transform local norms is secondary in our analysis. The reason being, if a local law-making institution is forced by groups within civil society to seek the sanctioning legally of the existence of an alternative mode of gender existence, this is a real learned experience for the institution itself. As we function on the basis of legal precedent, it therefore sets the

tone and lays an existing framework for an institution to follow. This is an important additional component to Institutional Maturation.

A question that arises however in this situation is then why should the process of gender equality be separated from the institution of which it seeks recognition. The argument here is that institutional protection of minorities does not need to be internalized as a local norm for it to be legalized. Legislation does not always need popular support of the people to be passed. Although common convention holds that public opinion drives democracy. Public opinion doesn't necessarily make the right policy; neither does it make the most appropriate laws (Weissberg: 2001). Governments in the past have often ignored public opinion in pursuit of other more pressing forms of development. Korea's authoritarian history does seem to point to this under times of duress. But examples can be found in other 'more democratic' countries where progressive laws have been passed to protect minorities despite public opinion being against it.

In 2003 New Zealand decriminalized prostitution. The passage of this legislation surprised many, as it was widely determined that it would fail. This was due mostly in part to the divisive nature of the bill. Some feminists opposed decriminalization, as did Christian groups (Crampton: 2001). Public opinion at the time was divided, however more New Zealanders favored maintaining the old laws, which criminalized the act of soliciting for trade under different ordinances and acts (Ibid). So in this situation why did the New Zealand government despite the tenuous public

support push through with the decriminalization of prostitution? According to the New Zealand Ministry of Justice the principal reasons for changing the existing laws emerged from the inherent difficulties of enforcing those very laws itself (Ministry of Justice, New Zealand: 2014).

Upon examining the parliamentary debate records, it seems very much that the discussion centered on questions of the consistency of law, very little was discussed about the morality of the act in question. The committee stage debate in particular is littered with comments like “we are not passing a moral judgment on prostitution”, and “our laws are simply outdated” (Hansard: 2003). It becomes rather apparent that the debate in New Zealand was focused on the merits of the law itself; as opposed to the moral consideration that is often argued in the debate elsewhere. In fact if we contrast this to the type of discussion that is often characterized in the debate over the rights of sexual minorities in Korea, we can see that the appropriate ‘moral’ part of the construction of laws often outweigh the merit of the law itself as an entity. In fact as mentioned prior, religious minorities attacked sponsors of the anti-discrimination law, accusing them of being closet homosexuals and North Korean sympathizers (Lee: 2013).

In particular negative attitudes towards homosexuality are central to Korean norms governing sexual behavior. For most Koreans, sexual behavior is best located within heterosexual marriage and the obligations of family relationships. For these reasons, the existence of homosexuals in Korea has been continuously denied throughout history. Same-sex

preference is seen as a peculiar form of sexual activity. Despite this very real bias in society, the fact still remains that the issue does not necessarily pertain to just the cultural norm but also is related to the Institutional Maturation levels of Korea.

An internal cultural norm can still exist within a society, and progressive forms of legislation can still be passed. Accordingly you would be hard pressed to find majority support in New Zealand for a statement that says prostitution is a positive activity (Taylor: 2013), but it was characterized as a matter of legal standing. Therefore, despite public opinion being very divided, and attempts by those against the law attempted to bring moral calculations into the debate, the overall debate stayed close to positivist reasoning and justification.

It is argued here that this can be explained by the fact that New Zealand's institutions have matured. They have reached the point of Institutional Maturation but in contrast, Korea's have not. And as we have also mentioned previously, in Australia there is strong public support for the acceptance of homosexuality as part of their society, yet the legal frameworks in place to offer more codified rights within Australian Federal Legislation is limited in comparison to other countries with similar values. Australia and New Zealand are often spoken of in the same breath. So close is this relationship that their differences are often taken for granted. Yet their Institutional Maturation levels can be seen to be a determining factor in accounting for the differences in policy outcomes for its respective

minority population. It can be further deduced then that the major issue as a whole is to do with the institutional arrangements of these countries as much as it is to do with the prevailing normative frameworks.

Ethnic diversity is also an important marker that separates certain OECD nations. Korea and Japan are two of the ethnically most homogenous populations in the world. According to Korea's office of National Statistics in 2010 the Korean population contained 97% ethnic Koreans and foreigners making up just 3% of the population. Japan was even less diversified with nearly 98.5% of its population sharing the same ethnic heritage (CIA World Fact book: 2013). Diversity is definitely not something that can be characterized as a feature of either of these states.

This question of ethnic diversity relates directly to the impact and efficacy of civil society. The public sphere is an essential component of socio-political organization because it is the space where people come together as citizens and articulate their autonomous views to influence the political institutions of society (Castells: 2008). But if there is only one prevailing ethnic group, this tends to lead to the homogenization of cultural traits and norms. Thus, irrespective of the size of the public sphere, attempts at social transformation become stalled.

They become stalled in two ways. The opportunity for localization, or internalization that Finnemore and Sikkink argue for, of an international norm, which differs from a local norm, becomes difficult to adopt, as they will find difficulty in even just entering public discourse if there is no

opportunity for congruency to be found. The resulting limited number of diverse ‘views’ on the matter makes norm localization unlikely. However, for institutions this is also a problem, it means that the forces that are shaping its identity in a similar way are also homogenized. Therefore it is not used to dealing with diversity in any shape or form. This is an important part of Institutional Maturation. The distinction here though, is that the institution itself is not gendered or diversified via the process of social changes. Its capacity to become amoral is what is being affected in the process. So in effect, a lack of diversity in these populations also reflects a lowered capacity for its law-making institutions to pass laws based on this premise of necessity and merit.

There are exceptions to every rule and in some populations ethnic diversity does not necessarily mean that it will impede Institutional Maturation or the forces that lead to its existence. For example Finland, Norway and Germany also have rather homogenized populations, albeit not as severe as that of Korea and Japan, however their location and history of dealing with surrounding states, and their experience of being part of a wider European community has allowed their institutions to be able to develop their own experience in dealing with diverse interests. Multilateralism is rather a new phenomenon in Asia; therefore, the severely restrictive nature of interactions between these states is impacting the ability of a country to develop Institutional Maturation in this region. This is also exemplified by Australia, whose limited conception of ethnic identity is not

mitigated by extensive close contact with its neighbors. Held in complete contrast to its closest neighbor New Zealand, which has a much higher level of ethnic diversity, and can also be said to have a much stronger tradition of codifying progressive types of legislations (Social Progress Imperative: 2014).

It can be reasonably asserted then, that diversity also matters to Institutional Maturation; because as we have noted already, civil society performs an intermediary role between the people and state apparatuses, people and the economy, as well as people and its government. Social processes such as movements toward gender equality and the increase of migration resulting in greater diversity give our institutions the capacity to accommodate different groups. In terms of civil society and their preferences, the institutional approach to explaining civic morality relies on the mechanisms linking legitimacy with compliant behavior. Legitimacy, defined as ‘the belief that authorities, Institutions, and social arrangements are appropriate, proper, and just’ (Tyler: 2006; Leki: 2006). In this view then, its institutions can aid a government’s durability, which means that the traditional position has been of institutions functioning as a tool for governments. However Institutional Maturation is a process, which acts on the identity of institutions separately. When a country’s institutions reach this point of development, it becomes a lot more difficult for governments to deny the rights of its citizens including minority groups. Diversity

matters, as in it gives institutions experience and the ability to deal with policy proposals and legislation in an amoral capacity.

3.0 Methodology

3.1 Research Focus

The motivating question of this research is very simple. Why is it that the emerging international norm toward Marriage Equality or Same-sex Marriage being protected in law is not finding much support in some nations yet finding little resistance in others within the OECD? Traditional explanations have been extensively covered in the preceding literature review. Therefore upon reviewing the prior research in the field, this thesis has developed a hypothesis, which will be tested using a rudimentary quantitative method. At the conclusion of the quantitative analysis, this study will discuss further the issue of Marriage Equality in the OECD and its implications for the possibility of codifying other types of socially progressive legislation.

The basic premise of this research is that the lack of Institutional Maturation is what is preventing the possibility of international norms, which pertain to the rights of the LGBT minority from being institutionalized in certain countries within the OECD. So in order to be able to investigate this relationship fully, the following hypothesis has been developed.

Hypothesis: “Propensity to pass Marriage Equality (marriage equality legislation) is positively correlated to a country’s Institutional Maturation level”

3.2 Conceptualizing Institutional Maturation

In order to be able to test this hypothesis the first thing we need to do is define Institutional Maturation in a more succinct ontological form. Once this is done it needs to be explained how Institutional Maturation could be measured statistically, this section will cover this aspect of the research methodology.

Institutional Maturation is defined here as:

The point at which a state's institutions operate largely outside the scope of societal influence; and its institutions function amorally allowing only for rationalist justification of state processes.

It is important to note that Institutional Maturation in this study is not a term used purely as an adjective; rather, it is argued that it has much use as a noun, which implies that it is actually a state of being, an ontological understanding of state local law-making institutions. It is also a verb, as it is a distinctly measurable process that undergoes changes and modifications through different avenues. Institutions reach this point after a certain degree of social progress. The importance of Institutional Maturation then, is that it functions to give a nation's institutions an amoral character. Therefore if a country's institutions reach this point of Institutional Maturation, it will be able to accept local norms and international norms existing within its realms

concurrently. This means that despite there being a local norm that conflicts with an international norm, provided conditions of Institutional Maturation are in place, it is possible for the international norm to still be adopted.

Institutional Maturation represents a new way of perceiving institutional arrangements and characteristics. Therefore there is no readily available marker that can be used to measure Institutional Maturation. Thus in order to measure Institutional Maturation, this study has conceptualized an index, which it is believed can be used to measure Institutional Maturation. Institutional maturation occurs as a by-product or externality of the interaction between social forces that are allowed room to express themselves through civil society. And in the case of a norm like Same-sex Marriage, a nation-state needs to have passed through enough social changes to produce a large enough effect on the shape of institutions. This process is outlined in figure 1.

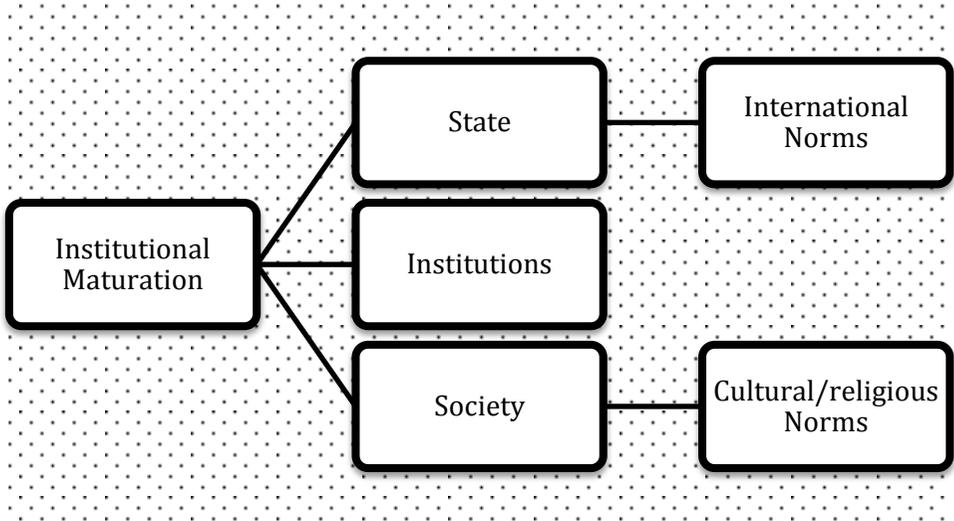


Figure 1

3.3 The Impact of Culture and Religion

It may have been expected that culture and religion would be controlled for in this analysis. However, this study chooses not to input either as an individual variable into the following quantitative analysis. As has been previously demonstrated in our review of the prior literature, Religious and cultural factors are important in determining the ability of a country to pass Same-sex Marriage legislation. But only so much as it functions as a contingent process, so like other factors are important but not determinant therefore do not need to be controlled for in this case. Institutional Maturation is our independent variable and, as previously outlined, is an amoral conception. Therefore, it does not function as a promoter of any particular cause but rather as a defender of positivist reasoning. Religion and culture still exist, but so can progressive forms of legislation if Institutional Maturation levels are seen to be above a certain level. Institutional Maturation does not function as an antidote to local norms, but instead it merely presents conditions for an international norm to be able to be institutionalized alongside the existence of local norms such as religion and culture.

This is not to say that an analysis could not be completed that compared the relative potency of Institutional Maturation with that of the prevalence of religious and cultural norms. However this analysis runs into problems from the outset. For one, the conception of a valid measure of

both would be difficult to statistically measure, although not impossible, it is beyond the scope of this study. This study initially explored the possibility of plugging in culture and religion as independent variables but measuring the impact of culture and religion on societal views would require working from a single data set or compiling data sets from varying sources, which, unfortunately was not possible. Despite this setback, this sort of analysis is seen as the natural next step after the conclusion of this study and to further develop and refine this concept of Institutional Maturation.

4.0 Quantitative Analysis A: Measuring Institutional Maturation

To measure the concept of Institutional Maturation it is proposed here that the most effective way is to construct an index that can be used as an indicator of its presence in certain locations. This index will be known as the Institutional Maturation (IM) index. Based on the theoretical framework that has been outlined in the preceding literature review we can look to specific areas of economic and social development to denote Institutional Maturation.

The areas are conceived as *Economic Maturation*, *Democratic Maturation*, *Gender Equality* and *Ethnic Diversity*. These four conditions are what create Institutional Maturation. Progress in these areas will lead to a country's domestic law-making institutions adopting an amoral posit through the process of learned institutional memory, functioning on a precedent based framework. The most fortunate aspect for this study is that data that measures these indicators are readily available to the public at large. This index happily makes use of this already robustly researched secondary data.

The first condition in which Institutional Maturation needs to take place is that a country's income or economy needs to have reached a minimum level. Economic success unlocks the opportunity for civil society to emerge. Therefore our first measure needs to reflect this. Industrialization produces pervasive social and cultural consequences, from rising

educational levels to changing gender roles. Industrialization is seen as the central element of a modernization process that affects other elements of society (Inglehart and Baker: 2000). To this end, the first indicator to denote the appearance of Institutional Maturation needs to be national income. It is difficult to ascertain how high a country's income should be before it can be considered that they have reached a critical level to affect social change. To avoid issues here of measurement we have limited the countries to be measured to only OECD nations. This means that by default all countries that are included in the data analysis will qualify as reaching a point of economic maturation. However a caveat needs to be offered here. The fact that all the countries that have been identified in this study are OECD countries does not necessarily mean that all have a thriving public sphere. Those varying conditions of the efficacy, presence and scope of a public sphere are of course determined by local factors, but that is best dealt with in a comparative study, or a qualitative analysis. What our study takes from the position of OECD countries is that reaching a certain income provides the conditions for a robust civil society to become developed. This does not necessarily mean that one is guaranteed to form. But to this study this actually is not an important point. As long as the seeds are there for Institutional Maturation we are able to move our analysis forward. This index does not plug in the actual income level for each country in its calculation. This was not done for two reasons.

The first is what was mentioned previously, there is no need to do so as the argument advanced here is not that Institutional Maturation develops with an increase of income levels. Merely that it provides conditions for the development and effect of the process, which is affected by other societal factors. Also by plugging in the individual income of the different countries this would possibly negate the effectiveness of the index to measure Institutional Maturation. The wide disparity in income levels within the OECD would mean that income levels itself could perhaps be taken as its own independent variable. However this is not the point of this study. Therefore it is taken as an assumption here that the countries within the OECD have at the very least the seeds of a civil society and public sphere to form.

For a civil society to gain in strength and influence it means that it needs to have a relatively free and open environment for public discussion and discourse to take place. Moreover, the political process should not be easily corrupted. Therefore the next measure of Institutional Maturation which is included in the index is the level of democratic consolidation. To denote the relative significance of these particular phenomena this index will use two indicators to measure democratic consolidation.

The first indicator will be measuring the level of perceived corruption that is associated with a particular country or territory. This study chooses to use data from Transparency International's Corruption Index (CPI) 2012 published in 2013. It is argued that this is a valid first

proxy for democratic consolidation for a number of reasons. Firstly, the index is developed using data from sources that are independent institutions that specialize in evaluating governance and business climate (Transparency International: 2013). There were 13 data sources that the CPI gathered data from. These included the following: African Development Bank Governance Ratings 2011; Bertelsman Foundation Sustainable Governance Indicators 2011; Bertelsman Foundation Transformation Index 2012; Economist Intelligence Unit Country Risk Ratings; Freedom House Nations in Transit 2012; Global Insight Country Risk Ratings; IMD World Competitiveness Yearbook 2012; Political and Economic Risk Consultancy Asian Intelligence 2012; Political Risk Services International Country Risk Guide; Transparency International Bribe Payers Survey 2011; World Bank - Country Policy and Institutional Assessment 2011; World Bank - Country Policy and Institutional Assessment 2011; World Economic Forum Executive Opinion Survey EOS 2012 and World Justice Project Rule of Law Index.

These data sources sought responses to these questions: ‘To what extent are public office holders who abuse their positions prosecuted or penalized?’ and ‘To what extent does the government successfully contain corruption?’ (Bertelsman Foundation Transformation Index) The Economist Intelligence Unit data set included responses to questions such as ‘Are there clear procedures and accountability governing the allocation and use of public funds?’ ‘Are public funds misappropriated by ministers/public

officials for private or party political purposes?’ The data from these institutions and sources can be said to be reliable as they are independently verified and follow a very rigorous review process. The data from the Corruption Perceptions Index is an aggregated index, which brings together data from the aforementioned sources to measure the level of perceived corruption within the public sector. This data is collated and a country is given a score on a scale between 0-100 to denote the relative level of perceived corruption in that locality. The data is both country-to-country comparable and also time-series comparable as the index is compiled annually.

Like most social indicators the data that is compiled for use in the CPI is of course measured by perception as it is based on responses from people within a particular location. The reason why perceptions in this case are more important is because corrupt practices often go on behind closed doors. Therefore it can be extremely difficult to expose corrupt operations; governments in particular can be good at hiding corruption. That does not mean that it does not happen, it most certainly does. However an index that attempts to measure real levels of corrupt practices would run into reliability issues from the outset. Therefore it is more useful to measure perceptions in this instance (Transparency International: 2012).

For our index and study, the issue of corruption is important to denote democratic consolidation, as the key to a functioning democracy is the trust people place in their democratic institutions (Kim and Im: 2001).

For countries within the OECD this is particularly important, as there is a significant mix of countries within this group of nations that belong to all three waves of democratizers. There were the first wave that democratized in line with the rise of industrialization up until the end of the First World War, those that democratized after the Second World War following the demise of the old world order, and the third wave of democratizers that include countries in Latin America and parts of Southeast Asia, South Korea and Taiwan (Huntington: 1991). These Third World democratizers only recently adopted democratic institutions. Therefore it can be said that they offer some fertile grounds for assessment in terms of democratic consolidations. If a third-wave democracy is to develop into a complete democracy, it must do more than hold free and fair elections; it must also become a modern state [...] development of institutions and procedures that effectively enforce the rule of law against corrupt public officials, promote popular trust by increasing the trustworthiness of political institutions and increase the accountability of government to ordinary people (Rose and Shin: 2001).

Another important aspect of democracy and democratic consolidation is free speech. For different groups to be able to have effective voice in processes of social change, a free press is invariably needed. The IM index will also factor in this indicator to its construction. The data that will be used in its calculations is data from the Press Freedom Index (FPI) released by Reporters Without Borders. It is argued here that

the data from the FPI is a valid proxy for freedom of speech as the ability of a press to be able to report the happenings within a country free of political interference speaks to the ability of a country's government to be able to control public discourse over particular issues.

If a country's government is able to effectively control the types of reports that are available in the media it denotes that the power of a local group is able to overcome rationality in policy debates. In other words it means that a local norm is still being allowed to overcome a country's local law-making institutions, therefore indicating a lower presence of Institutional Maturation. Hence the negative relationship implied with a low level of freedom of press and speech with Institutional Maturation.

The FPI is compiled by Reporters Without Borders, and it measures the overall level of freedom of information in the world and the performance of world governments in relation to this key indicator of freedom and rights. The index is based on quantitative data collected from 179 countries. The organization sends out a questionnaire to 18 of its partner organizations (NGOs) on 5 different continents as well as to their network of 150 correspondents in different countries and to independent journalists, human rights activists' researchers and jurists.

This questionnaire covers a wide range of areas, from the availability of private sources of media, to the amount of government regulation of the industry, censorship and corrupts practices in the management of media outlets. The index and questionnaire is not

constructed using these sources alone. The rest of the questionnaire, which is sent to outside experts and members of the Reporters Without Borders network, concentrates on issues that are hard to quantify such as the degree to which news providers censor themselves, government interference in editorial content, or the transparency of government decision-making. Legislation and its effectiveness is the subject of more detailed questions. Questions have been added or expanded, for example, questions about concentration of media ownership and favoritism in the allocation of subsidies or state advertising. Similarly, discrimination in access to journalism and journalism training is also included. A score and a position are assigned to each country in the final ranking. They are complementary indicators that together assess the state of press freedom. In order to make the index more informative and make it easier to compare different years, scores range from 0 to 100, with 0 being the best possible score and 100 the worst. The index reflects the situation during a specific period. This year's index (2013) is based solely on events between the start of December 2011 and the end of November 2012. It does not look at human rights violations in general, just violations of freedom of information (Reporters Without Borders: 2013).

the FPI groups results from this data into six categories of which a weighted index is constructed to give the overall score of each country on this index. The categories are: *Pluralism*: Measures the degree of representation of different views in the media; *Media independence*:

Measures the degree to which the media are able to function independently of the authorities; *Environment and self-censorship*: Analyzes the environment in which journalists work; *Legislative framework*: Analyzes the quality of the legislative framework and measures its effectiveness; *Transparency*: Measures the transparency of the institutions and procedures that affect the production of news and information and *Infrastructure*: Measures the quality of the infrastructure that supports the production of news and information.

The breadth and depth of this data analysis makes it a reliable measure of Press Freedom. This is a valid proxy for the level of freedom of speech in our analysis as it covers many areas of how we can perceive freedom of speech and how governments may choose to oppress it. As previously mentioned a low level of freedom of speech negatively impacts the presence of Institutional Maturation in a location.

The next measure of Institutional Maturation that is also included in the index is gender equality. It is held here that as long as a country's institutions have not become accustomed to the concept of legislating the rights of the minority gender, its institutions will not be able to process effectively arguments in support of the rights of other gender minorities like the LGBT community. As mentioned in the literature review, Institutional Maturation is developed through precedent resulting in institutional memory and distinct amoral identity for a state's local law-making institutions.

In the gender equality case, the gap between the power distribution allocated to men and women is an important indicator of the amount of work that has been done by a country's politicians, polity and law-making institutions in this area. The lower the gap between the two, the more likely it is that this country has had to have public discourse develop that engages and looks to institute changes. Through this process it helps to generate greater institutional capacity, and therefore aid the development of Institutional Maturation. To measure gender maturation within a population, to this end this study opted to use data from the World Economic Forum (WEF) report on the Global Gender Gap in 2013.

The WEF Global Gender Gap Index examines the gap between men and women in four fundamental categories (sub-indexes): *Economic Participation and Opportunity*, *Educational Attainment*, *Health and Survival* and *Political Empowerment*. In terms of *Economic Participation* the index is calculated using the following variables: Ratio of female labor participation, making use of data from the International Labor Organization; wage equality between men and women; ratio of women as state legislators over that of men; ratio of female technical workers over those of male technical workers. In terms of *Educational Attainment* the sub index was calculated using data that was constructed as a ratio of net levels for women in literacy, primary, secondary and tertiary education. The data collected here was from work completed by UNESCO. For the *Health and Survival* sub-index the ratios used to calculate this was the ratio of female to male

births, and the ratio of female to male life expectancy. The data collected here was from the Central Intelligence Authority (CIA) and World Health Organization fieldwork. Finally in terms of *Political Empowerment* this sub index was calculated using ratios that denoted the level of women with seats in parliament over that of men; ratio of women in ministerial positions over that of men; and the number of years of a female head of state over that of a male head of state. This data was collected on parliamentary and state records of individual countries. These sub indexes are weighted and controlled for standard error to ensure as much accuracy as possible (WEF: 2013).

The benefit of using this data as a measure of gender equality is that it focuses on relative outputs as opposed to inputs. Often conceptions of gender equality are based on official legislative frameworks and official state policy. However, this negates the actual outcome of policy on the relative deprivation that is experienced by women throughout the OECD. Outcomes of policies are not necessarily dependent on official state positions on particular issues. There are other factors that impact on the power women have to autonomy and equality within their society. The persistence of attitudes and values cannot be measured by analyzing access data alone. Therefore the ratio approach becomes more accurate in actually describing the outcome and reality for women.

There are many other measures of gender equality that have been published by varying organizations. One such report is the United Nations

report on gender equality, which however focuses mostly on access. Access as mentioned previously does not take into account the gap in outcome, which limits the picture that this particular index can give us in relation to gender equality.

Why proximity is important for Institutional Maturation is that proximity is closely linked to the efficacy of policies. Therefore this index is more useful in being able to detect hidden structural barriers to female participation and therefore cannot and should not be looked at in isolation. It needs to be judged in relation to the dominant actor. In this situation, the dominant actor is that of men. Therefore the WEF index provides us with more useful data in terms of use for Institutional Maturation. After all it has been argued in this paper that in the pursuit for gender equality, Institutional Maturation becomes inevitably closer to becoming a reality.

A further indicator of Institutional Maturation is ethnic diversity within a country. Ethnic diversity is important to Institutional Maturation as it increases the likelihood of countries having to develop more accommodating legislation; as ethnic diversity increases, so does a country's needs for these types of legislative frameworks. There will be accompanying social processes that take place with increased ethnic diversity, for example racial discrimination may force legislative bodies to enact more legislation that may function to be able to codify the rights of minority ethnic groups. This coupled with the increase in awareness of other minority groups such as the recognition of women's rights and gender

equality pushes a country's legislative institutions to a position of Institutional Maturation, again due to the forces of legal precedent providing avenues for Institutional Memory. Ethnic diversity also forces countries to have to take foreign cultural practices into account during their understanding of what constitutes society and affects its identity.

This measure of ethnic diversity may seem rather simple to measure. It requires the simple data collection act of pouring over population statistics for each country, and that should be suffice in being able to gather data on ethnic diversity. However to denote true ethnic diversity it is not enough to factor in the presence in terms of number of different ethnic groups within a local setting alone. So it is required that a little bit of data manipulation be done. Using data gathered from the *CIA World Factbook* and data released by individual statistics agencies of countries in the OECD the measure of ethnic diversity will be formulated in the following way. From a population denoted at 100 percentage points, the percentage identified, as the largest ethnic group will have its relative percentage deducted from the total. The remaining value will be added to the calculations of our index, which will be outlined in the next section.

This study posits that this measure is a valid proxy for ethnic diversity for the following reasons. As has been indicated already, it is not enough just to denote the presence of ethnic minorities. However more specifically, the size of a minority has more effect on Institutional Maturation as the fact that there is a sizeable ethnic minority poses more

urgent questions to the state polity. A greater number of an ethnic minority within the population of a particular group ensures that there is a stronger influence over policy discourse, public discussion, and forces questions of identity on to a particular polity. Remembering that Institutional Maturation as a verb functions very much on notions of precedent building processes as a result of social processes and interactions, ethnic diversity is also a very important aspect of Institutional Maturation.

4.1 Calculating the Institutional Maturation Index

$$\text{Equation A } IM = \left(\frac{(PCi+PFi+Ge+Ed)}{n} \right)$$

$$\text{Equation B } PFi = (100 - RWb)$$

$$\text{Equation C } Ed = (100 - De)$$

The IM index is an aggregated index that combines the data from differing data sources. Equation A denotes the formula used to create the Institutional Maturation Index. It is an evenly weighted index that will combine secondary data as previously outlined in the first section of the quantitative analysis. It gives a country a score from 0-100 based on the calculations of Equation A.

IM Denotes Institutional Maturation and *n* represents the number of inputted variables into the index. *PCi* Indicates the Corruption perception of each individual country, this was sourced from data gathered from transparency international. This data gave each country a score out of 100 so the raw figure was inputted directly as it was already in the same form of the index.

PFi denotes the Freedom of Speech level within a location. As has been extensively outlined in the prior section of this study, it will make use of data from Reporters Without Borders pertaining to the level of freedom of expression enjoyed by media outlets in certain locations. For the data from Reporters Without Borders however, there is an inverse correlation to their index. So the lower the score a country receives, the higher the press freedom in that particular setting. Therefore this data was manipulated and converted into a positive correlation index that was in turn then added to the

calculations of the institutional maturation index. This is denoted in Equation B where the original score garnered by is denoted by the value RWb .

To measure gender equality, the measure is the data presented by the World Economic Forum Global Gender Gap. This is denoted by the value Ge . In terms of the data from the World Economic Forum this was produced in a positive correlative form. Therefore the data from this index was also easily digestible and compatible with the workings of the Institutional Maturation index. Therefore a direct input was possible and no data manipulation needed here.

For ethnic diversity, this required a more extensive 'hands on' data gathering process. Each country in the OECD had their country profiles investigated. This data was retrieved using the database of the CIA, their annual fact book provided population statistics that were sourced from the officially released statistics by these governments. This data needed further manipulation to be truly reflective of what it was trying to measure. Ethnic diversity points were based not on the number of different ethnicities within a particular setting. Rather, the percentage of the largest ethnic group within a particular country was deducted as a percentage total from 100. The remaining figure become that country's input to the IM index to reflect more the significance of ethnic diversity, to ensure that we do not confuse existence and significant presence within a given country. This has been

denoted in Equation A and C as Ed and in equation C the largest ethnic group has been denoted by De representing ‘dominant ethnic group’.

Once all the inputs have been gathered, a score for that relative country is calculated using Equation A’s formula. Here is an example of the working of the IM index calculations. We use the example of Canada here.

$$IM = \left(\frac{(PCi + PFi + Ge + Ed)}{n} \right)$$

$$PCi = 81, PFi = (100 - 12.7)Ge = 74.3, Ed = (100 - 28)$$

$$IM = \frac{(81 + 87.3 + 74.3 + 72.0)}{4}$$

$$\rightarrow IM = 79$$

This formula was applied to all the countries in the OECD except for one, which was Turkey. The data set for Turkey was incomplete; therefore it was not factored into our calculations. For the remaining countries in the OECD their relative scores have been grouped into a table that is arranged into descending order.

4.2 Results and Discussion A

Table 1: Institutional Maturation Index

Country	Corruption (PCi)	Free Press (PFI)	Gender (Ge)	Ethnicity (Ed)	Institutional Maturation (IM)*
Canada	81	87.3	74.3	72	79
NZ	91	91.6	78.0	31.2	73
Switzerland	85	90.1	77.4	35	72
Luxembourg	80	93.3	74.1	36.9	71
Belgium	75	87.1	76.8	42	70
Sweden	89	90.8	81.3	19.6	70
Finland	89	94	84.2	6.6	69
France	71	79	70.9	54	69
Denmark	91	93	77.8	9.5	68
Netherlands	83	93.5	76.1	19.3	68
Norway	89	93.5	84.2	5.6	68
Iceland	78	92	87.3	6	66
USA	73	81.8	73.9	35.1	66
Estonia	68	91	70	31.3	65
Chile	71	73.8	66.7	46	64
Germany	78	90	75.8	8.5	63
Ireland	72	90	78.2	12.6	63
UK	76	83.1	74.4	16.4	63
Australia	81	84.8	73.9	8	62
Austria	69	90.6	74.4	8.9	61
Czech	48	90	67.7	37.3	61
Slovakia	47	86.8	68.6	36.3	60
Spain	59	79.5	73.5	14	57
Israel	61	67	70.3	23.6	56
Poland	60	86.9	70.3	3.3	56
Slovenia	57	79.5	71.6	16.9	56
Japan	74	74.8	65	1.5	54
Portugal	62	83.3	70.6	1	54
Hungary	54	74	67.4	7.7	51
Mexico	34	54.7	69.2	40	50
Korea	55	75.5	63.5	3	49
Italy	43	73.9	68.9	8	49
Greece	40	71.5	67.8	7	47

Table 1 *IM values rounded to nearest whole number

Table 1: represents each country in the OECD that returned full data sets, and was able to have an Institutional Maturation score calculated. The Institutional Maturation table places Korea 31st out of 33 surveyed countries from the OECD. Canada, New Zealand, Switzerland, Luxembourg, Belgium, Sweden, Finland and France were the countries that received the 6 highest scores on the Institutional Maturation index. If we look at how this relates to Same-sex Marriage rights legislation we can clearly identify a strong correlation already. New Zealand, Canada, Belgium, Sweden, France have passed into law marriage equality legislation; Luxembourg and Switzerland have already introduced varying degrees of protection for same-sex couples (Freedom to Marry: 2014).

Looking further down the list of top 10 nations, Denmark, Norway and the Netherlands have also enacted Same-sex Marriage legislation with Finland having enacted broad protections for same-sex couples. Parts of the United States have enacted Same-sex Marriage legislation; Estonia and Chile round out the top 10 highest scores on the index. Estonia is an interesting case as it is the only ex-soviet state to register in the top 10; however there seems to be a history of progressive minded policies in Estonia. And although there is no legal recognition as of yet for same-sex couples, there have been movements by the Estonian government and bureaucrats to allow for the registration of same-sex unions, and there are a raft of legislative frameworks in place that are moving toward the equal recognition of LGBT under Estonian law (Freedom to Marry: 2014).

Chile is also another interesting example, under Chilean law there seems to be very little protection for same-sex couples. At the start of 2014, there were no laws in place; however, it seems that this situation is very close to changing. Newly elected President of Chile Michelle Bachelet has endorsed marriage rights for same-sex couples. And at present Chile's legislature is debating the passage of a bill that is expected to legalize the existence of same-sex unions under the law (McNeice: 2014). Chile is also potentially an interesting comparative case to Korea namely because Chile has experienced authoritarian rule in the past (Ungar: 2003), and can be grouped as part of the third wave of democratizers (Hite: 2003). Therefore its institutions and their shape or identity and their trajectory would make a fitting comparison to the case of a country like Korea.

Further down the index, particularly toward the middle of the table the situation becomes decidedly muddled. It seems countries that received a score between 56 and 63 on the index have a mixed package of legal protections for same-sex couples. Some countries within this band have enacted full Same-sex Marriage legislation (The UK and Spain). Meanwhile the rest seem to at the very least have enacted anti-discrimination laws or adopted civil union legislation (Australia, Germany, Ireland, Austria) or introduced legislative frameworks designed to give protection to same-sex couples under the local law, or spousal rights to same-sex couples. (Austria, Czech Republic, Slovenia) some also recognize Same-sex Marriages

performed internationally, but don't allow them to be performed in their own country (Israel).

The glaring difference seems to be Portugal; this country has enacted full same sex marriage legislation despite receiving an Institutional rating of 54, and is only 5 points higher than Korea. Portugal like Spain experienced authoritarian rule; this again would make for a very useful comparative study between the Korea and Portugal. Portugal it seems though is more predisposed to the idea of Same-sex Marriage because it is one of the few countries in the world to include a ban on discrimination based on sexual orientation in its constitution. (Loveys: 2010) And this in itself can be used as a useful point of reference for the Institutional Maturation thesis; the key determinant of whether a country will codify Same-sex Marriage or not is the institutional arrangements. The institutional arrangements of a location are important because they will either help or hinder the passage of progressive legislation.

Portugal it seems may not be registering on the Institutional Maturation level for differing possible reasons. First it may indicate that Portugal may have reached codified rights through a process of norm internalization, this adds weight to the norms transition theory thesis, and also adds to dimensions of local norms being determinant in certain locations. It may also identify a possible weakness in the IM index and perhaps could suggest that a review of the measures used may be required,

but the fact that there is only one outlier in the index does not seem to support that view.

For one thing the prevalence of a codified norm showing up in a legislative framework does not negate the validity of our thesis. Institutional Maturation is not an antidote to any norm, and if this is indeed the case, which would need to be verified in another study, it would not negate the validity of our thesis. Actually at this stage it is too early to be drawing definitive conclusions, as a comparison with the Propensity to Pass Marriage Equality needs to be completed first. Once this is done we may be able to deduce some more pertinent conclusions on this one outlier.

5.0 Quantitative Analysis B: Propensity to Pass Marriage Equality

To measure the likelihood a particular country codifying legislation toward Marriage Equality, another index has been conceptualized and calculated. It is herein known as the Propensity to Pass Marriage Equality (PPME) index. The PPME base score will be used to identify the progress of a country toward the realization of LGBT rights through marriage equality legislation.

In order to do this, a set of key legislative frameworks that are often used by activists in their campaigns for the rights of an LGBT minority have been conceived of. These eight indicators have the benefit of ease of use as they are sourced from data that pertain to the actual legislative frameworks that are in place in different OECD nations. This index unlike the IM index does not rely on any social indicator measures, and therefore it avoids questions around reliability. They are also measures that represent the normalization of LGBT minorities within the legislative frameworks of each country. It will provide us with valuable insight as to what the relative position is in each location in terms of progress toward Marriage Equality. The basic premise of this index is that progress toward Marriage Equality is a process just like other social processes that must pass through certain stages legislatively as well on its road toward relative codification in legislation.

. To construct the index, data was collected from Freedom to Marry a NGO concerned with promoting Marriage Equality in different countries,

and where needed combined with data from the CIA database in relation to the relative position each country had reached in terms of legal protections enacted for same-sex couples in their location. This score was developed using a frequency table that has been included in the results and discussion. Each country was given a score out of 100 on a weighted index. A 1 in the index represented complete legal protection on this measure. Partial scores were also given based on whether that particular country had enacted partial legislation. This was particularly the case for the United States where an accurate score was calculated by collating and combining data on a state-by-state basis. The table was constructed by allocating a score for the following 8 indicators:

Measure 1 = Legal right to change gender. In some locations the right to change one's gender is denied to its citizens. This represents an attitude pervasive within the legalized understanding of gender being a binary construct. A country that refuses this right to its citizens will show much less likelihood of passing Marriage Equality legislation.

Measure 2 = LGBT couples have access to fertility options such as IVF and surrogacy. This is also another important precursor to Marriage Equality legislation. A legislature that grants the legal right to access of fertility treatment for same sex couples must show a higher propensity to pass Marriage Equality legislation. A lot of countries allowed for lesbians

but not gay males to access this service, and therefore a score of 1 was only given to countries that allowed for both.

Measure 3 = LGBT allowed to serve openly in the military. This measure in particular is an area that has been discussed much in popular discourse. This was perhaps a prominent topic in the world's newspapers as the U.S. in particular had a robust discussion about this in its policy frameworks (Freedom to Marry: 2014). The point here again is that a country that legislates this right will be more likely to be on its way toward passing Marriage Equality legislation.

Measure 4 = Adoption / Fostering for same-sex couples. One of the major contentions for those who are against the idea of codified rights for same-sex couples comes in the form of an attack on family values (Spivey: 2006). This type of legislation in particular is vital in the move toward marriage equality. A country that has this codified in its legislation has by default accepted that there are alternative meanings of 'family' outside of the traditional heterosexual relationship. It would be very unlikely to have a country pass this sort of legislation without the view of passing Marriage Equality at the same time or in the very near future. (A score out of 2 was given here to denote the extra significance of this legislative framework on the conceptions of a traditional family) Partial adoption rights that were granted by countries garnered a score of 1 for example some countries only

allowed for females to adopt and foster children, in these locations a score of 1 was given.

Measure 5 = Anti-discrimination legislation. The most basic of all protective types of legislation, this indicator will check to see if there is the presence of anti-discrimination legislation in the workplace, in other areas of society, and whether hate speech against LGBT communities have also been codified as an illegal practice in that country's legislative frameworks.

Measure 6 = Equal age of consent for sexual activity in same-sex relationships and heterosexual relationships. In the past the equal age of consent for individuals to engage in sexual activity between a male and female was set much lower than the equal age of consent for sexual activity between people of the same gender. In logic that runs similar to the censorship of adult material for certain age groups, this sort of practice denoted a societal prejudice against same-sex couples as sexual deviants. Therefore a change in this legislative framework is also an important step toward Marriage Equality in various settings.

Measure 7 = Recognition of same-sex couples under law. Often there can be a raft of protections that offer recognized legal status for same-sex couples in front of the law. This can be sometimes be termed 'civil partnerships'. This term refers to the legal recognition of a relationship

between people, yet attempts to take the religious aspect of the relationship out of the equation. This is the case for a country like Switzerland (Freedom to Marry: 2013). Again this is an important precursor to Same-sex Marriage or Marriage Equality as it lays down the institutional framework for the possibility of codification of Same-sex Marriage in a particular country.

Measure 8 = Same-sex Marriage. The ultimate in societal transformation is of course passing Same-sex Marriage, which is the final indicator. Although the PPME is meant to measure the propensity to pass marriage equality, this measure needs to be included in our formulation of the PPME index as it is important for comparative purposes with the IM index which is the independent variable in our analysis. (A score out of 2 was also given to denote the significance of this legislation) Partial scores were also given to accommodate regional differences in some countries like Mexico, which allows Same-sex Marriage only in Mexico city, however recognizes them nationally (CIA Factbook: 2014).

5.1 Calculating the PPME Index

The Propensity to Pass Marriage Equality (PPME) index is an aggregated index like the IM index; however, it is actually a weighted index that seeks to measure the propensity of a particular country to pass Marriage Equality based on existing legislative frameworks already in place. As has extensively been outlined previously, there are 8 kinds of legislative frameworks that will be used to measure the PPME. And the calculations used to calculate the PPME is listed below. As there is no social indicators used in the PPME we do not need to worry about accuracy or reliability as it is a simple matter of whether something is present or not. Therefore the calculations and analysis can be kept very rudimentary.

Equation D:

$$PPME = (CHg + Fer(n) + OPsm + ADop(x) + Ant + EqAg + Cpart + Me(2) \times 10)$$

$n = 0.5 \sim \text{partial rights}; n = 1 \sim \text{full rights}$
 $x = 1 \sim \text{partial rights}; x = 2 \sim \text{full rights}$

Each variable has a base value of 1 denoted by the presence of it in a particular setting. The equation is coded by the following variables.

PPME Propensity to Pass Marriage Equality; *Chg*: The legal right to have one's gender changed; *Fer* denotes whether same-sex couples have access to state supported fertility treatments; *OPsm* indicates whether an LGBT individual is allowed to openly serve in the military; *ADop* represents whether a LGBT couple have the same adoption rights of a heterosexual couples; *Ant* indicates the presence of anti-discrimination laws within a

particular setting; *EqAg* denotes the presence of an equal age of consent on sexual relationships between same-sex and heterosexual partners; *Cpart* represents the presence of legalized status of a same-sex couple in front of the law, this can be indicated by civil partnership laws; *Me* denotes the presence of full Marriage Equality in a particular context. Here is an example of how the index is calculated using once again the example of Canada. In the case of Canada $n = 1, x = 2$

$$\begin{aligned}
 PPME &= (CHg + FEr(n) + OPsm + ADop(x) + Ant + EqAg + Cpart \\
 &\quad + Me(2)) \times 10 \\
 PPME &= (CHg(1) + FEr(1) + OPsm(1) + ADop(2) + Ant(1) \\
 &\quad + EqAg(1) + Cpart(1) + Me(2)) \times 10 \\
 PPME &= (10)10 \rightarrow PPME = 100
 \end{aligned}$$

Table 2: PPME Index

Country	1	2	3	4	5	6	7	8	Total
Canada	1	1	1	2	1	1	1	2	100
Denmark	1	1	1	2	1	1	1	2	100
Netherlands	1	1	1	2	1	1	1	2	100
New Zealand	1	1	1	2	1	1	1	2	100
Belgium	1	0.5	1	2	1	1	1	2	95
Iceland	1	0.5	1	2	1	1	1	2	95
Norway	1	0.5	1	2	1	1	1	2	95
Spain	1	0.5	1	2	1	1	1	2	95
Sweden	1	0.5	1	2	1	1	1	2	95
United Kingdom	1	0.5	1	2	1	1	1	2	95
Australia	1	0.5	1	2	1	1	1	0	75
Czech Republic	1	0.5	1	2	1	1	1	0	75
France	1	0.5	1	0	1	1	1	2	75
Germany	1	0.5	1	2	1	1	1	0	75
United States	0.8	0.8	1	1	0.8	1	0.8	1	72

Portugal	1	0	1	0	1	1	1	2	70
Israel	1	0.5	1	2	0	1	1	0	65
Ireland	1	1	1	0	1	1	1	0	60
Luxembourg	1	1	1	0	1	1	1	0	60
Finland	1	0.5	1	0	1	1	1	0	55
Hungary	1	0.5	1	0	1	1	1	0	55
Slovenia	1	0.5	1	0	1	1	1	0	55
Austria	1	0	1	0	1	1	1	0	50
Mexico	0	0.5	1	0	1	1	0.5	1	50
Switzerland	1	0	1	0	1	1	1	0	50
Chile	1	0.5	1	0	1	0	1	0	45
Estonia	1	0	1	0	1	1	0	0	40
Italy	1	0	1	0	1	1	0	0	40
Greece	1	0	1	0	1	0	0	0	30
Japan	1	0	1	0	0	1	0	0	30
Korea	1	0	1	0	0	1	0	0	30
Poland	1	0	1	0	0	1	0	0	30
Slovak Republic	0	0	1	0	1	1	0	0	30

The table above indicates the scores for each OECD country based on the information gathered using Equation D.

Key	Legislation Passed
1	Right to Change Gender (<i>CHg</i>)
2	Access to Fertility Treatment (<i>FEr</i>)
3	Openly Serve in the Military (<i>OPsm</i>)
4	Adoption Rights (<i>ADop</i>)
5	Anti-Discrimination Legislation (<i>Ant</i>)
6	Equal Age of Consent (<i>EqAg</i>)
7	Recognition of Same-Sex Couples (<i>CPart</i>)
8	Same-Sex Marriage (<i>Me</i>)

5.2 Results and Discussion B

The PPME returns some very clear results for our analysis. First of all, four countries in the OECD delivered a perfect score. They were Canada, Denmark the Netherlands and New Zealand. These four countries have codified all 8 kinds of legislation that was identified in the index including complete Marriage Equality. In fact all four countries also registered in the top ten when it came to Institutional Maturation, with Canada recording the highest level of Institutional Maturation and New Zealand second.

Recording a score of 95 were Belgium, Iceland, Norway, Spain, Sweden and the U.K. all of these countries have also codified full marriage equality; however there seems to be a little inconsistency in a certain area of their legislative frameworks. For all of these nations, that inconsistency was represented by the fact that IVF or fertility treatments were only available for the female gender, and therefore only lesbian couples would have access to this sort of treatment and the accompanying state funding.

Next on the list came Australia the Czech Republic, France and Germany. Interestingly here we see that Australia has registered lower on the PPME than many may have expected considering that public opinion is very high in Australia for the support of the normalization of homosexuality in its society (Pew: 2013). But Australia also recorded a mid range IM index score so there is definitely something to be said about this relationship here. Another surprising result is that France, which is a country that has codified Same-sex Marriage completely in its legislative

frameworks also displayed inconsistencies when it came to other rights for its LGBT community, hence it falls twenty points lower on the PPME than other countries that have codified Same-sex Marriage into their legislative frameworks. France is in the top ten for the IM index, so this suggests that there may be some other forces at work here. Although France's PPME rating is lower than other countries that have passed Same-sex Marriage, it must be noted that France has actually passed Same-sex Marriage; therefore it supports the theoretical framework advanced by this research.

The next country is the United States who registered a score of 72 on the PPME index, which perhaps indicates the muddled picture of the United States. Measuring the U.S. PPME was difficult as the frameworks there are changing every day. Moreover, each state of the U.S. has different institutional arrangements and legislations, so the U.S. data was very mixed to begin with. Interestingly enough though, it appears that the U.S. score on the IM index places it midrange, and its result on the PPME also places it midrange. There does appear to be a strong correlation to be seen here as well.

The following countries on the list are Portugal (70), Israel (65), Ireland (60) and Luxembourg (60). Most of these countries seem on the cusp of moving on more progressive kinds of legislation. Portugal's score position is of critical importance due to its potential to be a relative outlier: it has codified in its legislative frameworks full Same-sex Marriage protection. But this legal protection does not extend to cover other areas of

LGBT equality within its framework. For example Portugal does not allow same-sex couples the right to adopt or to access fertility treatment. This hints at a possible compromise being struck between Portuguese society and its legislative body. It is possible that there is a prevailing norm that is preventing the passage of these rights in Portuguese society. It can be said that the idea of same-sex couples finding legal protection for their relationship is guaranteed under the Portuguese constitution, but this right may not have been conferred by any societal processes or forces that may impact Institutional Maturation as has been conceived of here in this study. It just may be the case that a norm of equality to recognition has been established, but Institutional Maturation has not which has led to the obvious inconsistency in its PPME ranking too. We can further deduce that Portugal's low IM index score is not in fact an outlier in this sense. It can be explained by the correlative PPME position it occupies.

A country like Israel is extremely important for this study as well. Israel was founded on the idea of creating a Jewish state. Therefore its very roots as a nation-state are based on a religious norm (Neuberger: 1999). Yet Israel has codified more protection for its LGBT community than the other half of the OECD, as it represents the median point of our index. This is despite rights for same-sex couples obviously being against the doctrine of the Judaic text. The Old Testament passages are what are often quoted by Christian fundamentalists in their opposition to homosexuality and alternative concepts of gender, aside from the accepted normal binary

understanding (Sheehan: 1982; Subhi and Geelan: 2012). Israel is also more entrenched in the U.S. sphere of influence than other nations, often relying on the U.S. goodwill for its security (Talhami and Krosnick: 1996; Rodman: 2012). Despite this, its relative mid to low range score on the IM is not too different from what it has registered on the PPME index.

Ireland on the other hand is expected to move up the rankings on the PPME in a few months as its legislature begins the process of encoding Same-sex Marriage in to its frameworks through a public referendum scheduled in 2015 (McDonald: 2013). This is reflected in its IM index score showing a similar position to that of its ranking on the PPME.

Luxembourg may appear to be an outlier in the PPME, but it seems that it is actually the poster child for this study. Luxembourg is the perfect example of what the IM index looks to predict. Its low score on the PPME does not match its high score on the IM index. And this study of course was concluded on data that pre dated May 2014. In June 2014 a vote was passed in Luxembourg's parliament 56-4 in favor of legalizing Same-sex Marriage and will be enacted in the next 12 months (Gander: 2014). Therefore if we were to review the Luxembourg case, it would move into the higher group of countries on the PPME. Thus supporting the idea of the IM index having the ability to predict the adoption of progressive types of legislation, and in this case the likelihood of Marriage Equality becoming adopted in a certain location.

Of the remaining countries in the OECD that returned scores below the median represented by Israel's position, only one has some form of regional Same-sex Marriage legislation in place, Mexico, meanwhile countries such as Finland, Hungary, Austria, Switzerland and Chile have all enacted civil partnership legislation. Switzerland is interesting because it has a very high IM index ranking; in fact it occupies one of the top 3 positions on the IM index. This indicates that Switzerland possesses the capacity to pass Same-sex Marriage legislation if there was a movement for it. But Switzerland is a special case. For one thing neutrality is engrained in our image of Switzerland, and it seems unlikely that it would be a country that attempts to suppress any group in its society, this initial IM index analysis suggests that if the debate arose in Switzerland an LGBT minority would find itself likely to have its rights upheld. But what actually might be happening is to do with Switzerland's unique democratic frameworks. We must factor in the fact that there is an unusually high level of direct democracy (Lutz: 2006). Therefore a prevailing norm among the population in Switzerland has an unusually high chance of affecting the kinds of legislative frameworks that are adopted. There are legal protections in place for same-sex couples, and perhaps a large proportion of Switzerland's population feel that this framework is enough. In some ways the peaceful nature of Swiss society may mean that minorities feel no need to press the issue. Further qualitative analysis is needed here, but in the Swiss setting, it can be convincingly argued that the constitutional frameworks of its direct

democracy type of legislative arrangements may have negated the efficacy of the IM index in this sense.

For the case of Chile, its rather low relative position of the PPME again adds weight to the IM index argument. Chile sits in the middle of the IM index, which indicates that it should also sit around the middle on the PPME. However, this is not the case, and again this is due to the fact that the data captured by this study was concluded prior to May 2014. It seems rather apparent now that Chile will enact greater protections for its LGBT minorities, which was mentioned in the results and discussion section of part A.

The remainder of the countries on the PPME has registered very low levels of protection for its LGBT communities. These include Estonia, Italy, Greece, Japan, Korea, Poland and the Slovak Republic. A quick look at the list of the countries, some reasonable similarities can be easily spotted. In the case of Korea and Japan, proximity plays a part, but more importantly Japanese society and Korean society are both hierarchical and patriarchal to a certain extent which means that making a qualitative prediction in this sense could have been done. However their low performance on the PPME is also matched by their low performance on the IM index, which suggests that the identity of their local law-making institutions must also be taken into considerations. The same can be said about Poland and the Slovak Republic, being recent breakaways from Eastern Europe's conservative heartland, their proximity and shared history

of authoritarian rule can also be used as a qualitative indicator, however again this is also matched by their low position on the IM index. Italy and Greece also follow this same pattern.

Considering that we do have two indexes of comparable data, it is possible to do more detailed statistical analysis; therefore the next section of our study will use rudimentary statistical methods to ascertain the relationship between Institutional Maturation and that of the Propensity to Pass Marriage Equality.

6.0 Institutional Maturation and its Relationship to Propensity to Pass Marriage Equality

At this point, considering that we have been able to ascertain the relative levels of Institutional Maturation, as well as the relative progress of the OECD countries that are being analyzed toward Same-sex Marriage, we can combine the two sets of data and investigate whether there is a statistical relationship between Institutional Maturation and social transformative legislation such as Marriage Equality. A scatter plot diagram labeled as Chart 2 illustrates the results.

By examining the relationship between Institutional Maturation and Same-sex Marriage we can see that there is an identifiable relationship between the two. It seems apparent that as a country's Institutional Maturation index level increases so does its propensity to enact Same-sex Marriage legislation. This has been illustrated by the following output equation from our scatter diagram confirmed by the linear regression analysis:

$$\text{PPME} = - 52.6479 + 1.9143 * \text{Institutional Maturation}$$

At this stage the R squared is quite healthy. At roughly 39% it is quite significant. Especially as the data range for propensity to enact Same-sex legislation was based on a very narrow band or options. Also, an R squared value, which is between 30-50% whilst using social indicators, is not unexpected. At nearly 40%, it is remarkably strong. Additionally, the deviation from the trend line can also be attributed to this feature of the

index (which will be discussed further after the regression analysis). So at this stage the R squared level is not really a matter of too much concern. Especially as table 3, summarizes the results of a regression analysis that will help to answer our original hypothesis.

Chart 1: Scatter Plot IM vs PPME

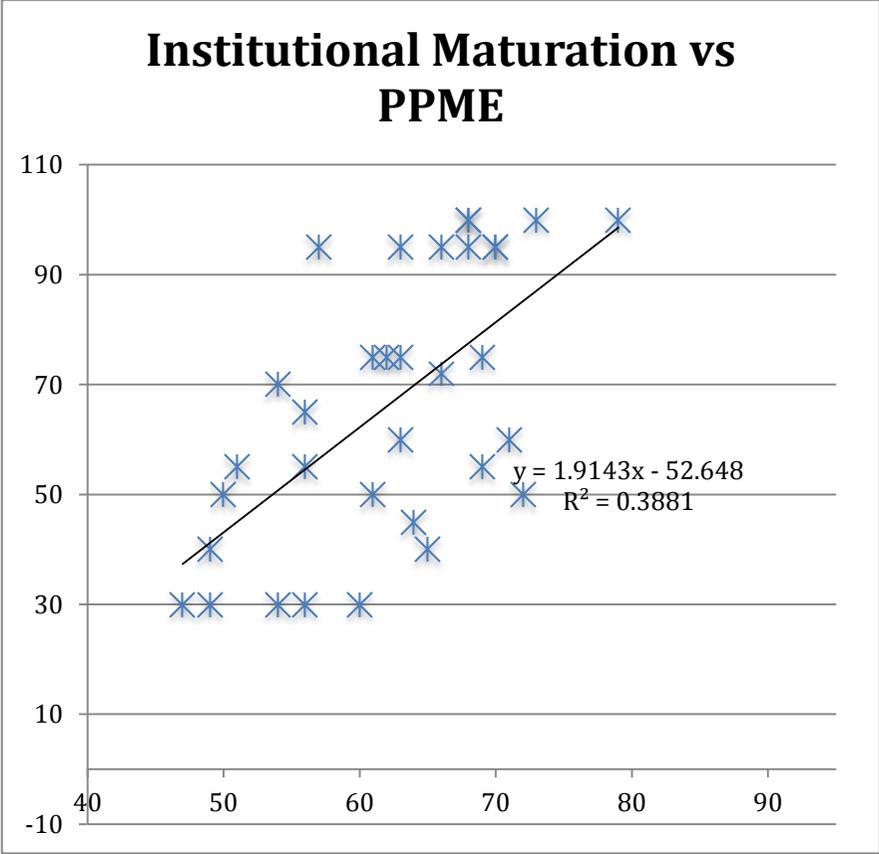


Table 2: Linear Regression Analysis – IM vs PPME

Linear Regression							
Regression Statistics							
<i>R</i>	0.62						
<i>R Square</i>	0.39						
<i>Adjusted R Square</i>	0.37						
<i>Standard Error</i>	19.63						
<i>Total Number Of Cases</i>	33						
PPME =- 52.6479 + 1.9143 * Institutional Maturation							
	<i>Coefficients</i>	<i>Standard Error</i>	<i>LC L</i>	<i>UC L</i>	<i>t Stat</i>	<i>p-level</i>	<i>H0 (2%) rejected?</i>
Institutional Maturation	1.91	0.43	0.8	2.9	4.4	0.000	Yes
			6	7	3	11	
<i>T (2%)</i>	2.45						

By running a simple linear regression analysis of data, it seems that we can assert a strong correlation between Institutional Maturation and the propensity for a country to show progress toward enacting Same-sex Marriage legislation. The coefficient is a healthy 1.91 with a standard deviation or error of 0.43. The p-level, which indicates the probability of whether this correlation can be attributed to random distribution, i.e. denotes whether the coefficient value can be accepted or not sits at 0.00011 which makes this result statistically significant. The R squared level and the equation matches from the original trend line analysis, which makes our regression analysis accurate.

Of concern perhaps is the high standard error in terms of the sample data; at 19.63 this can be seen as a hurdle for the accuracy of our measures. But once again this is not of major concern for our analysis as this was to be expected considering the low number of data entries (Montgomery and

Peck: 1982), moreover, as previously mentioned, the compact nature of the data values for the PPME being based on an 8-point 100 value scale.

Therefore the high standard error returned by the regression analysis is not too much of an issue. The R squared level, despite being below 50% is still significant considering that we are measuring data derived from social indicators on one, which are notoriously unpredictable to measure.

However, the implications for our study are extremely important. Based on these statistics we can conclude that in terms of a country's propensity to pass Same-sex Marriage legislation, or move toward enacting this type of legislation we can say that Institutional Maturation is a determining factor that should be taken into account.

To satisfy the more statistically minded, the type of analysis undertaken here could still be refined and improved further. If the 8-point scale, which was used, were to be increased to a complete 100-point scale, or even expanded to a 10-point scale we may have been able to produce even more statistically accurate results. But this would create additional questions that pertain to validity of measure. No such data set currently exists that would be able to offer a valid measure of propensity to pass Same-sex Marriage legislation, and this could perhaps be another area of research that could be explored further. However for our intents and purposes it is argued that this 8-point scale is sufficient as the regression analysis in this instance is merely investigating a relationship between two variables. The 8-point scale means that we are able to avoid issues of

validity, as it has been developed to remove subjective judgments in the allocation of scores and categorization. Also, the scale is based on very real legislative frameworks and changes. This is what makes it a valid indicator of progress on LGBT rights within a locality.

More importantly however the statistical analysis has returned a strong correlation between the IM index and the PPME index. Therefore in terms of our hypothesis, we can reject the null hypothesis and accept our alternative hypothesis. Institutional Maturation does indeed affect positively the propensity for a country to pass Same-sex Marriage legislation

7.0 Further Discussion Points

It seems that from a purely descriptive position, analyzing table 1 in relation to the amount of countries that have passed Same-sex Marriage legislation, there is a discernible pattern. Almost all countries that have legislated for Same-sex Marriage have scored at least 63 points on the Institutional Maturation index. The only exception being of course Portugal, which scored 54 on the index, however there as previously mentioned are good reasons for this. Portugal has an institutional mechanism in place, which already increased the likelihood of the passage of marriage equality legislation. In its constitution, discrimination on the basis of sexuality has been enshrined as illegal. The significance of this has already been extensively covered in the preceding discussion sections.

What this points to then is a cutoff point, which seems to hover around the low 60s. This point on the IM index appears to indicate that any country, whose Institutional Maturation level is above this, is more likely to pass Same-sex Marriage legislation. In fact so strong is this indicator, it can be inferred any countries that are above 63 and have not as of yet enacted Same-sex Marriage legislation, at the very least possess the institutional capacity to do so. And this assertion was proved correct by Luxembourg whose low level on the PPME for instance was not reflected by its high score on the IM index. In turn at time of printing Luxembourg has just enacted Same-sex Marriage legislation..

In the rise of Marriage Equality around the OECD there are of course other determining factors, which need to be considered. For example, what are the operational structures of the institutional arrangements associated with the protection of LGBT rights in that country? Some countries that have already enacted anti-discrimination laws may feel that their laws are adequate enough to confer secular rights of cohabitation and spousal rights to sexual minorities, thus rendering the debate around enacting Same-sex Marriage obsolete. So it simply is not enough to have the institutional capacity for enacting such a piece of legislation. There also needs to be a driving force behind a movement toward the realization of such a piece of legislation. This seems to be the case for a country like Switzerland, which again has also been extensively discussed in prior sections of the research. Therefore we can deduce from this that international norms can potentially be the driving force behind a change in local policy; however, only if a high level of Institutional Maturation has developed will it be able to be codified.

The example of this is of course New Zealand, which in less than 12 months, drew from the international norms framework developing and represented by U.S. President Barack Obama's 2012 remarks, codified legislation for Same-sex Marriage despite there being very little domestic drive for the change prior to this. New Zealand incidentally also has one of the highest IM index scores of the countries surveyed in the OECD, ranking second overall.

This is not to say that, international norms need be the only driving force behind the change in a local polity. Localized movements and sponsors of the push for Same-sex Marriage recognition may also be able to impact change. However, the essential difference though, is that when a country reaches a high level of Institutional Maturation, a nation's local law-making institutions will favor positivist reasoning and rationally based decisions to pass through its legislative and judicial frameworks. Therefore, norms that are based on faith, (religion) or communal practices founded on traditional claims (culture) will lose its efficacy in being able to deny the passage of progressive legislations which are in line with the institutional arrangements of that country, provided that that type of legislation can stand the rigors of rational reasoning. In other words, the identity of the local law-making institutions in this instance has changed. However, the local norms may have not. This does not preclude their power in shaping societal attitudes to behavior; however, it does preclude their ability to deny legal protections for others within the society.

For countries then that returned low scores on the IM index it indicates a low level of institutional protection, or potential for protection for minority groups. It must then be inferred here that a country that has a low level of Institutional Maturation, means that their institutions are still influenced by public opinion, therefore, the local norms are still allowed to pervade the kinds of legislation that are passed into its law. The defeat of the anti-discrimination law in Korea is a prime example of this. It seems

rather strange for a so-called democratic country to deny the passage of a somewhat rudimentary piece of legislation. In the end, the institutional framework in place in Korea, Japan and in countries like Italy and Greece is what is denying the legal progress of the rights of its sexual minorities. This study has certainly identified areas that could be looked into for further comparative and qualitative studies.

8.0 Implications

No quantitative analysis can be said to carry a complete authoritative statement on social forces especially in a rudimentary sense like the technique applied here. In particular, often by measuring narrow sets of variables it can fail to capture all the interests in a society. This study has some clear limitations as well. However there are some important questions and implications that this study has uncovered. This section will seek to pose these additional questions, and explain how significant these results are for the path toward Same-sex Marriage, and the legal recognition of LGBT people in different OECD settings. .

When looking at the results in this study, it seems glaringly apparent that countries like Korea, Japan, Greece and Italy's level of Institutional Maturation in comparison to other nations within the OECD is decidedly low. The first question to be posed then is, what are the factors that are keeping their level of Institutional Maturation so low despite the obvious economic capacity for Institutional Maturation to grow? As has been pointed out before, this has been attributed to the pervading historical circumstances in some locations and cultural as well as religious norms in others.

However, this claim has been partially debunked by this research. Not by presupposing that religious and cultural norms in fact do not matter, rather as a consequence of the prevailing historical context, religious and cultural norms, there has not been enough progress in other areas such as

gender equality, a complete lack of awareness of ethnic diversity, and limited democratization in terms of citizenship values like free speech and corruption, preventing the establishment of Institutional Maturation in these settings. All of these factors have created a situation where institutions in these countries do not have the capability to recognize Same-sex Marriage, or rights of LGBT citizens. The point here is not that the societal attitudes are the most important variable, rather societal attitudes reflect on a nation's institutions in both a capacity form, as well as utility form. In these settings, because there has not been progress in these key areas, the institutions can still be hijacked by power elites, which we have witnessed in the defeat of the anti-discrimination law in Korea just last year.

To illustrate how Institutional Maturation works in practice, we can look to countries that registered highest on the Institutional Maturation index. In New Zealand on the eve of the passage of the Marriage Equality law that hailed in Same-sex Marriage, public opinion was divided evenly. According to a New Zealand Herald Digit Poll in March 2013 public opposition to Same-sex Marriage sat at 48% (New Zealand Herald: 2013). This was a significantly high number, however the terms of this legislation and that of other socially progressive legislation such as Prostitution Law Reform as was previously cited, meant that the issues were automatically being framed from legal positivist positions. Morality by default was being removed from the discussion. In the end the Marriage Equality Law was passed by a vote of 77-44. What gave New Zealand politicians the

confidence to pass such a divisive law? It had to have come down to the institutional arrangements in place. This has been reflected in New Zealand's Institutional Maturation score.

Moreover what this index also allows us to assess is the impact on institutions that other social progress indicators have on the propensity of a country to be able to pass more structural transformative types of legislation. Important predictors for Institutional Maturation have been established as economic development or industrialization, followed by ethnic diversity and gender equality, which is crowned by the level of democratization a country, is able to achieve. Therefore for a country to be able to pass greater protections for LGBT individuals and move toward legalizing Same-sex Marriage it needs to improve in these areas. This is a powerful finding of this study.

It therefore predicts that in order for LGBT activists and supporters to have the ability to effect institutional change in OECD countries that scored below the average on the PPME index, they will need to promote progress in these other social areas as well. Therefore lending support for greater democratic freedoms, greater gender equality, less corruption in the government will directly affect the country's ability to pass laws that pertain to greater protections for sexual minorities.

Moreover, what this situation then implies is that a country's institutional frameworks will be more likely to accept outside norms. In particular by initiating greater ethnic diversity it increases the possibility of

transnational advocacy networks gaining greater influence. But more importantly it allows greater links to be developed at state level as well. Many of the countries on this list have current predominantly strategic relationship with the U.S. due to shared military or economic goals. However, transmissions of ideas and norms are still possible. Consequently, the ability of these outside norms to influence change is still being stifled by the local institutional framework. As has been outlined previously, by affecting the way in which social progress occurs in differing areas, it modifies the shape of local law-making institutions. In this instance then, we can say that Institutional Maturation can also be a determining factor as to whether an international norm can gain localized institutionalized status in the form of local legislation.

Of perhaps greater international significance is what reaching Institutional Maturation may mean for other kinds of socially progressive legislation. This study briefly touched on Prostitution Law Reform, but there is also another emerging debate internationally about the recreational use of marijuana. With the decriminalization of both recreational and medical use of marijuana in a handful of states in the United States and nationwide in some European countries (Drug Policy Alliance: 2014), there does appear to be potential for the development of an international norm around the personal use of narcotics. This would provide a very interesting test of the Institutional Maturation theory advanced in this research.

The preceding paragraphs mention observations and claims that can and should be studied in greater comparative details. However, they are not the only areas that this research uncovers in terms of greater research capacity. The indexes and their measures also provide us further areas of research. In particular the Institutional Maturation index could be refined further into a weighted index. This could be done by a statistical analysis or completed through qualitative or comparative means. Investigating what is the relationship between these indicators would provide great research fodder. In terms of historical/comparative analysis the progress on LGBT rights legislation index could provide more fertile grounds for further analysis. Also, the between the measures themselves, there could be further statistical comparisons available. In particular the relationship between the different variables could also be investigated in order to try and further refine the validity of using a statistical approach to measuring Institutional Maturation.

9.0 Conclusion

At the outset of this research project, the goal was to investigate the relationship between international norms, Same-sex Marriage, and persisting conservative norms in a locality and how each affected the other. Upon reviewing the prior literature associated with Same-sex Marriage and LGBT rights in the OECD, it became apparent that there was a distinct lack of institutional protection for LGBT peoples in different countries, yet more robust and complete protection in others. The differences between all these nations has been explained via the literature which points to strong cultural values in some locations, heavily influenced by historical factors in others, coupled with an extremely pervasive religious elite in some or a combination of the three in the others. The political elites informed by these normative understandings of societal arrangement have managed to capture the interests of the state, preventing any kind of movement toward the realization of legal protections for the LGBT community in most of these countries. So despite the emerging presence of a strong international movement toward the realization of Same-sex Marriage in other OECD nations, some countries have been locked into conservative purgatory, thus preventing international norms relating to the rights of LGBT people from being localized in these settings.

However, this research also made use of prior theoretical frameworks in the school of International Relations (IR). By focusing on the recently appreciated turn in the scholarship toward social factors

modifying the interests of agents, impacted on by the structure of anarchy in the international system, this research has argued that a new level of analysis can be found that relates to norms transitions and the agent-structure dilemma. This is the reflectivist nature of the process of Institutional Maturation, which emphasized the distinct identity of state law-making institutions. A key finding of this research is that the very social processes that are affecting the increasingly multiple identities of citizens within a country; which in turn is impacting on the identity of domestic law-making institutions is shifting them toward a position of Institutional Maturation; which has been defined as the point at which a nation's law-making institutions reach a position of amorality. Where decisions it makes that pertain to dispensation of legal frameworks are based predominantly on positivist explanations and justifications, thus removing the possibility of moral arguments being capable of blocking the passage of more progressive pieces of legislation.

This study has identified four core processes that affect a nation's institutions toward a position of Institutional Maturation. The first being industrialization which is key for allowing the development of a public sphere. Additionally, this will then be further enhanced by the development of a functioning liberal and deliberative democracy. In particular the reduction of corruption and high levels of freedom of speech will enhance the ability of diverse views to emerge. Often this can lead to alternative views being advanced in the public sphere, which will allow the process of

institutional precedent to begin. This process will also be further enhanced by a third and fourth factor, which are interrelated. Gender equality and ethnic diversity are important as they provide institutions a greater opportunity to gain experience in dealing with more gender and ethnically diverse populations. Presence is important in raising awareness for any cause, therefore the greater the scope of these two social processes, then it can naturally be concluded the stronger the reflection it will have in the identity of domestic law-making institutions.

This phenomenon was measured by this study through a quantitative analysis that combined data sources from various organizations, such as NGOs and think tanks that have produced research into these social indicators. The analysis which combined industrialization maturation, democratic maturation, gender equality and ethnic diversity into an evenly distributed index was then tested against the legislative frameworks of countries in the OECD that represented progress toward Same-sex Marriage. The relationship between the two was very strong. In fact the coefficient between Institutional Maturations and Same-sex Marriage was 1.91. With a negligible p-value result, the results of the statistical analysis enabled us to accept our hypothesis that contended that there would be a strong correlation found between a country's Institutional Maturation level and their propensity to pass Marriage Equality legislation.

The findings of this study are particularly pertinent for the study of international norms transition and the localization process. Norm's

transition theory has posited that international norms need to be appropriated into the local setting, therefore placing international norms and domestic norms in an adversarial position. This study concludes that an international norm does not always have to be localized; rather it just needs to be capable of being defended if there is a minority group within a population that is seeking to have this norm institutionalized despite it going against the wishes of the majority. This is the case for conservative countries, where, unfortunately there does not seem to have been enough movement toward Institutional Maturation which will allow for the passage of laws to offer more widespread protections for the LGBT minority.

How is Institutional Maturation different from a transformed local norm then? The false assumption held here is that religious and cultural norms will always be able to be deterministic in the shape of the agent, or in this, case nation-states. We have seen that this does not necessarily have to be the case. In many countries that have passed progressive forms of legislation there are still strong religious and cultural presences.

This does not mean that religion and culture do not play a significant role in shaping the state's identity. It most certainly does, however providing other conditions hold, and other social processes have occurred, the impact on a country's law-making institutions is to build its Institutional Maturation capacity. Therefore an institution will function as a protector of the rights of minority groups that can help to disable the effect

of power relations to reduce an institution to merely a utility for interest promotion and agenda setting.

It appears then that the search for Marriage Equality in the OECD does not begin on the streets in the form of rugged activism. Rather there needs to be a greater recognition by LGBT activist groups in OECD countries that are seeking legal recognition that the lack of Institutional Maturation may actually be its greatest hurdle to overcome. Minority groups very rarely win battles fought over ideology by convincing a large proportion of the population to support them in an instant. The strategy it appears then, based on the results of this study must be rooted in an intersectional approach. Raising the level of democratic consolidation, gender equality and promoting diversity as much as possible will begin to lift the propensity for their individual governments to pass Same-sex Marriage legislation. Moreover, another major benefit for LGBT activists is the growing international movement toward Marriage Equality, especially among OECD nations.

So to finish, we shall return to the central question posed at the outset of this project, does the passage of progressive types of legislation such as Same-sex Marriage or Marriage Equality depend solely on changing societal norms? Or to put it in a simpler frame, do local norms always have to matter? Our study can say that local norms do not always have to matter, as long as conditions of Institutional Maturation are present, a country can codify an international norm alongside pre-existing local normative

frameworks. As a result the theory of Institutional Maturation it has been concluded here is an area of international relations that warrants further more robust investigation.

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