

The anti-LGBTIQ campaign in Poland: The established, the outsiders, and the legal performance of exclusion

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Abstract

Since Spring 2019, over 90 local communities in Poland adopted resolutions expressing their rejection of “LGBT ideology.” Based on a content analysis of these resolutions, I show how local lawmaking was used in this case to create and reinforce the social division between the heteronormative majority and Lesbian, Gay, Bisexual, Transgender, Intersex, and Queer people. In the “anti-LGBT resolutions,” majoritarian identities are territorialized by way of a construction of moralized social spaces designed to cast out the minority. Drawing on concepts proposed by Norbert Elias and John L. Scotson, I demonstrate the efficiency of law in the performance of exclusion in three dimensions: institutional, symbolic, and proxemic.

1 | INTRODUCTION

In 2020, an Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTIQ) activist, Bartosz Staszewski, produced yellow rectangular signs reading (in four languages) “LGBT-free zone,” styled to resemble the universally recognizable international signs that mark out military areas. The signs were then installed at the borders of some of the almost 90 local communities in Poland that have adopted resolutions declaring themselves “free from LGBT ideology” since March 2020. Next, the author took photos of individual LGBTIQ people living in these communities posing next to the signs (see Ciastoch, 2020). Staszewski reacted to the official “zooming out” of non-heteronormative inhabitants; he stressed the paradox and injustice of their simultaneous presence in and absence from the local communities. While it was not the only artistic performance of its kind, Staszewski’s action was unique in identifying the clash of the territorial reality of local communities with the physical presence of LGBTIQ people as the frontline of the decades-long culture war that has culminated in the 2020 anti-LGBTIQ campaign in Poland.

[Correction added on 18 April 2022, after first online publication: The copyright line was changed.]

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Since 2015, the national-conservative party Prawo i Sprawiedliwość (PiS; Law and Justice) has been in power in the country. Its political program is a challenge to the institutional framework of the postsocialist order (Krygier, 2019). It is supported by an extensive reframing agenda in areas of historical politics and the politics of memory, much like the one pursued by the government of Hungary, the other protagonist of Eastern European democratic backsliding (Ágh, 2016; Harper, 2018). Among the groups most persistently targeted by the governing party in Poland—as in Hungary—are LGBTIQ people¹ (Szymczak & Pacewicz, 2019). However, while the Hungarian anti-LGBTIQ legislative agenda has been actively pursued by national authorities (see Polgári & Dombos, 2020; Van Drooghenbroeck et al., 2021), in Poland, the specifically anti-LGBTIQ legislation has been adopted on the level of local self-government.

In this article, I focus on the anti-LGBTIQ resolutions adopted by Polish communities and regions in 2019 as centerpieces of the ongoing anti-LGBTIQ campaign. On the one hand, this campaign is a product of a broader agenda aimed at “gender ideology” and other ways of thinking condemned by the governing national-conservative Right (see Graff & Korolczuk, 2022; Korolczuk, 2020; on the political differences within the Right, see Goldstein, 2021). On the other hand, I argue that the anti-LGBTIQ campaign displays unique characteristics that can only be grasped adequately by simultaneously studying multiple relational dimensions of exclusion. By applying a three-dimensional model of analysis to exclusion dynamics based on Norbert Elias’s and John Scotson’s seminal study (2008), I explore the process of exclusion performed by local Polish lawmakers. Using Judith Butler’s notion of performativity (Butler, 1990, 1998; see also Salih, 2007), I show that the synergy of the legal framing of local self-government resolutions with the use of national symbols works toward construing LGBTIQ identity as incompatible with membership in local communities. I argue that this exclusion from local communities thus paves the way for a synergy of anti-LGBTIQ policy measures on the national level.

While my analysis combines the cultural study of law with an analysis of the established-outsiders figuration, it is not my intention to examine the general framework of the application of Elias’s theory in sociolegal studies (see Bucholc, 2021; van Krieken, 2019). In this article, I utilize the concept of legal performativity to specifically argue that anti-LGBTIQ resolutions create vicarious proxemic effects that result in the exclusion of outsiders in place of direct physical interaction. I explore law as a means of territorializing established majoritarian identities and moralizing social spaces that local lawmakers construct by symbolically removing the outsiders from the community, despite their continuous bodily presence in the physical space that the community occupies. Thus, I subscribe to Judith Butler’s tenet that identities are performed by linguistic acts reiterated in a particular institutional context (see Butler, 1990). The local authorities perform the exclusion under scrutiny by way of positing a heterosexual identity as the only one legally admissible within a specified territory envisaged as a moralized social space.

I will begin with an overview of the literature on the legal situation of LGBTIQ people in Poland, against the backdrop of a more general reflection on law as an instrument of social exclusion. Next, I will introduce the established-outsiders model as my theoretical framework, and I will state my argument for its unique advantages in studying social exclusion. Then, I will report the main facts of the rise and workings of the anti-LGBTIQ campaign in Poland, focusing on the emergence of the “anti-LGBT resolutions.” Finally, I will present the findings of my thematic analysis of the content of resolutions by local communities, and I will offer a critical review of the elements of the “established” and “outsiders” heuristic.

2 | STUDIES OF LAW AND EXCLUSION OF LGBTIQ PERSONS IN POLAND

Exclusion involves inequality. Summarizing the mission of sociolegal studies in the face of the growth of inequality in the modern world, Carrol Seron (2016, p. 17) stresses the need to give

more consideration to “what we all seek to teach our undergraduates in an introductory sociology or law and society class: [that] inequalities are embedded in structural and systemic processes.” In these processes, law and inequality are structurally interconnected. The broad range of issues that foreground the role of law in creating social exclusion includes the phrasing of legal acts, the language of legal proceedings, procedural norms, access to justice, legal education, legal consciousness, and the social communication of law (see, e.g., Buck et al., 2005; MacKinnon, 2005; Winczorek, 2020). Scholars have shown that law is instrumental in creating and sustaining inequality, which can lead to exclusion defined in ecological, economic, political, cultural, and other terms, both in particular nation-state societies and globally (see, e.g., Boatcă & Roth, 2016; Rhode, 1991; Sen, 1987).

One of the main frames for considering the role of law as an instrument of exclusion is the legal situation of minorities, and it is against this backdrop that the legal exclusion of LGBTIQ persons would usually be viewed. Most studies focus on the equality of rights between LGBTIQ and non-LGBTIQ persons, whether by examining national legal systems or by employing explanatory and interpretative models referring to global and regional regimes of minority rights and human rights in general (see, e.g., Ibhawoh, 2014; Johnson, 2013; Knauer, 2020; Notaro, 2020). In Europe, the impact of the European Union is a crucial factor, especially in studies on new member states, which have shown that EU accession initiated—or was expected to initiate—a change in the legal treatment of sexual minorities, due, among other factors, to the requirements regarding the recognition of marriage and family rights in the European Union (see Belavusau, 2020; O'Dwyer, 2012; Vaige, 2020).

In Poland, the rights of LGBTIQ people are far from equal to those of their non-LGBTIQ co-citizens (for details, see Ayoub & Chetaille, 2020; Commissioner, 2020). Comparative studies of Poland and other postsocialist countries show that the legal situation of LGBTIQ people in Poland is strongly related to the exceptional role of Catholic religiosity in the prevailing construction of Polish national identity (see Bucholc, 2020b; Porter, 2001). This situation makes it politically plausible to present claims for more legal equality for LGBTIQ people as a threat to both religious and national identity, enabling a wide mobilization of political opposition against any move toward more equality (Ayoub, 2014). Dorota Hall has shown how decisively Catholicism influences the position and perception of LGBTIQ people in Poland (Hall, 2016, 2017).

Even though national identity formation in Poland was heavily reframed by the fall of the Eastern Bloc and the country's accession to the European Union, its religious embedding remains an important factor (see Lewicki & Mandes, 2015). For many debates, such as the one concerning the promotion of conversion therapy or sexual reorientation as a means of restoring “sexual normality,” EU membership proved to be a trigger toward the radicalization of anti-LGBTIQ attitudes (see Hall, 2017). Philipp M. Ayoub and Agnès Chetaille (2020) offer an overview of the history of the Polish LGBTIQ movement by discussing the variety of legal frames applied by and to the movement since the late 1980s, which leads the authors to a similar conclusion: the further from 1989, the more conflict potential we observe. However, their analysis ends in 2010, so it does not include the period after 2015 in which the culture war over LGBTIQ in Poland reached its climax. While Binnie (2014) aptly shows that neoliberal rule does not necessarily produce queer winners, national-conservative rule—which in Poland replaced liberal rule in 2015—has definitely produced queer losers.ⁱⁱ This process coincided with an intense mobilization of the Catholic variant of national identity and the strengthening of the political alliance between the Church and the state (Žuk & Žuk, 2019). My analysis of the anti-LGBTIQ resolutions offers an important argument in support of the thesis that a new quality of exclusion with a pronounced spatial dimension has made itself felt in Poland after 2015, and especially since 2019.

3 | THEORETICAL FRAMEWORK

My interpretation uses Elias's and Scotson's (2008) model of the "established" and the "outsiders" (see also Hughes et al., 2016). Elias's and Scotson's work belongs to a long line of social-scientific approaches to deviance, ranging from Émile Durkheim's seminal argument about deviance as an immanent element of social life, through Robert Merton's strain theory, up to various theories of stigmatization and scapegoating. On the other hand, my interpretation is an extension of Elias's theory of the process of civilization (Elias, [1939] 2012), and in some sections that focus on the creation of power differentials by interactional mechanisms, it also draws on Elias's work on the court society (Elias, 2005).

Elias's and Scotson's study stemmed from the observation of the social creation of deviance at close quarters within an ethnically homogenous urban community (for more, see Hughes & Goodwin, 2016). The theory was subsequently mostly applied to research concerning international migration, intercultural and ethnic relations, racial discrimination, and open intergroup hostility (see, e.g., Lacassagne, 2016; Powell, 2016), while studies of social creation of difference *ex nihilo* have been scarce. However, Stephen Mennell identified relations between homosexuals and heterosexuals as one of the main fields of application of the established-outsiders model (Mennell, 1989, p. 125). Early studies by Bram Van Stolk and Cas Wouters (1987) revealed the particular traits of the position of homosexuals compared with other outsiders, many of which, they argued, were related to the obstacles to homosexual identity formation in the predominantly heterosexual (or, as would be the preferable term today, heteronormative) environment. However, this Butlerian motif was not sustained in further studies of non-heteronormative people as outsiders. Indeed, the concept of outsiders' identities being performatively created in the relational setting of an established-outsiders framework was not elaborated far enough to include a systematic study of identity performance—be it a female or a non-heteronormative identity—even though gender relations remained an important field for the concept's application (see Brinkgreve, 2004; Ernst, 1999; Liston, 2005). Moreover, the effect of law on the established-outsiders relationship is hardly ever problematized by scholarship, while the Eliasian paradigm usually envisages law as an epiphenomenon of group relations and power differentials (see Bucholc, 2015). Thus, the meaning of law remains neglected within this body of scholarship, and its performative power in identity formation underestimated.

In an earlier theoretical contribution to the study of gender inequality, I proposed that we distinguish three dimensions of exclusion of outsiders by the established: institutional, symbolic, and proxemic (Bucholc, 2011). The institutional dimension pertains to the existence of norms/sanctioned patterns of behavior that result in the prevention of certain groups from participating in institutionalized forms of social life (e.g., as members of organizations, members of governing bodies, or employees). Symbolic exclusion consists of creating and communicating an image of the excluded group that demonstrates the group's "otherness." In turn, the image's salience increases and can be used to justify the group's exclusion in institutional and proxemic dimensions. Proxemic exclusion is an arrangement of space and social practices that prevents the excluded group from entering or occupying certain places or from being physically near the established. I employ this analytical scheme in my analysis of the Polish anti-LGBT resolutions as legal performances of exclusion spanning all three dimensions (institutional, symbolic, and proxemic) so as to fill the gap in the literature regarding the legal performance of the exclusion of LGBTIQ people as outsiders on the local self-government level.

4 | FACTS OF THE CASE

One of the most impactful events concerning LGBTIQ rights in Poland occurred on February 18, 2019, when the newly elected President of Warsaw, a representative of the centro-liberal

opposition, signed the “LGBT+ Declaration for Warsaw” (Declaration, 2019). While I will not methodically analyze the contents of the Declaration, an overview of the text’s body will be relevant for understanding subsequent developments. Among other things, the Declaration proposes: community-based monitoring of hate-crimes against LGBT persons; anti-discrimination classes; the involvement of “lantern keepers” (*latarnicy*) at schools tasked with keeping an eye on LGBT students’ well-being; a sex education program structured “according to WHO standards and directives” (Declaration, 2019, 2); cooperation with NGOs acting in the interest of the LGBT community; and the nomination of a spokesperson for LGBT persons to the City Hall. One of the Declaration’s goals is to use administrative means to prevent violence against LGBT persons. The Declaration also includes provisions against employment discrimination, along with non-discrimination clauses for city contracts. Similar documents have been adopted in some of the biggest Polish cities, which also tend to be political strongholds of the centroliberal opposition.

In late spring 2019, private initiatives emerged that were aimed at promoting “freedom from LGBT,” including the promotion of stickers reading “LGBT-Free Zone” (*Strefa wolna od LGBT*). The stickers were distributed in July 2019 with *Gazeta Polska*, a national-conservative weekly. The graphic design was likely inspired by the radical Islamic “Gay-Free Zones” campaign in East London in 2011 (Dangerfield, 2011).

Parallel to the sticker action, between March 2019 and February 2020, over a hundred local self-governments debated the anti-LGBTIQ resolutions that had been announced as responses to the Declarations adopted in the biggest cities (for a quantitative analysis of the process, including in particular the participation of the *Ordo Iuris* organization as a political actor, see Rafałowski, 2022). Initially, the resolutions were simple documents crafted to reject “LGBT ideology” as opposed to “LGBT persons,” with proponents arguing that the rejection of an ideology cannot be held to constitute an act of discrimination against any person.ⁱⁱⁱ Late April 2019, was marked by the arrival of “Charters of Family Rights,” which were also framed as a form of opposition to “LGBT ideology” but were substantially different from and more sophisticated than the first-wave resolutions. The geographical area covered by local self-governments that adopted at least one of these resolutions amounts to almost one-third of Poland’s territory. The geographical distribution of local self-governments that adopted anti-LGBT resolutions coincides with the strongest concentration of supporters of the governing national-conservative party in southeastern Poland.

Despite widespread media coverage abroad, international reactions were late in coming. On November 27, 2019, the European Parliament debated a resolution on the anti-LGBT campaign in Poland, and on December 18, 2019, a resolution was adopted condemning LGBTIQ-phobia and discrimination (Resolution, 2019). A firm objection to the “Polish LGBT-free zones” featured in the State of the Union Address given by the President of the European Commission, Ursula von der Leyen, at the European Parliament Plenary on September 16, 2020 (van der Leyen, 2020). On December 3, 2020, the Council of Europe issued a memorandum on certain aspects of the situation facing LGBTIQ people in Poland, which cited as a human rights concern “the emergence of a widespread pattern of stigmatization and statements targeting LGBTIQ people in Poland in recent years, including by politicians, public officials, opinion leaders and other prominent bodies and figures in society” (Commissioner, 2020, p. 1). The mention of human rights protection refers directly to the crisis of the rule of law in Poland since 2015. The question of LGBTIQ rights in the European Union also featured strongly in the hectic debate over the EU budget in late 2020. Finally, in March 2021 the European Parliament adopted a resolution that declared the European Union to be an “LGBTIQ Freedom Zone” (see European Parliament, 2021). The image of Brussels imposing gay marriages upon Poland was the core argument invoked by the Polish government to justify its veto against the proposed mechanism of budget conditionality, which connected the eligibility for EU funding to the condition of the rule of law in the recipient member states. The compromise—finally reached after

Hungary and Poland vetoed the conditionality mechanism—can hardly be seen as a win for the European Union’s stance as the defender of the rule of law and human rights (Uitz, 2020).^{iv}

In the following section, I present the main findings of my analysis of the anti-LGBTIQ resolutions passed by Polish local self-government units. The resolutions are bits and pieces of local community life, and many of them were passed in villages and small towns. At the same time, their contents connect directly to the national crisis of the rule of law, the historical role of traditional Catholic religiosity, and the long-standing cultural divisions within Polish society, not to mention the integration and interdependence of member states within the European Union.

5 | ANTI-LGBT RESOLUTIONS: ECONOMIC LIBERALISM WITH A COMMUNITARIAN HUE

This section is based on a qualitative and quantitative thematic content analysis of 21 resolutions adopted from March 27 to December 30, 2019. Jointly referred to as “anti-LGBT resolutions,” the resolutions belong to one of two generic types. The first type comprises the resolutions proclaiming “Freedom from LGBT Ideology,” which represented the first wave of the anti-LGBTIQ campaign. The second type comprises resolutions that refer to themselves as “Charters of Family Rights.” This latter group belongs to the second wave of the anti-LGBTIQ campaign, and these resolutions were based on a document made available online in April 2019 by the *Ordo Iuris* Institute for Legal Culture, a fundamentalist Catholic think tank supporting the PiS government. While the document itself does not contain any direct mention of LGBTIQ people, it was discursively framed as part of the anti-LGBTIQ campaign and a response to the Declarations made by the governments of big cities. A local official representing the first community to adopt the Charter of Family Rights described it as a “response to what the big cities are doing” and asserted that “the Charter does not discriminate against anyone.”^v

The first resolution on Freedom from LGBT Ideology was adopted by the Mełgiew municipality in March 2019, and the first Charter of Family Rights was adopted by the county of Łowicz in April 2019. By October 2021, 91 resolutions were adopted on all three levels of local self-government: by 53 municipalities out of 2477, 37 counties out of 380, and five voivodeships out of 16; in some units, including four voivodeships, the resolutions were subsequently repealed as a result of the threat of withdrawal of EU funding.^{vi} 52 resolutions were of the Freedom from LGBT Ideology type, and 32 were Charters of Family Rights.^{vii}

My research plan assumed that the sample should reflect the share of both types of resolutions in the overall pool of adopted documents as well as the diversity of the documents, which was considerably greater in the Freedom from LGBT Ideology type. Therefore, in my sample resolutions, 14 represented the Freedom of LGBT Ideology type and seven were Charters of Family Rights. These resolutions were selected so as to cover all three levels of local self-government proportionately, based on the overall number of resolutions—that is, the sample included one resolution adopted by a voivodeship, eight by a county, and 12 by a municipality. Purposive sampling was conducted until saturation was achieved, which occurred rather early in the process, since the data are highly repetitive (Hennink & Kaiser, 2019). Details of the sample are provided in the “Resolutions Cited” section below. Thematic analysis was primarily chosen because of the theoretical open-endedness of the method (see Braun & Clarke, 2006).

Elias’s and Scotson’s approach does not delimitate the theoretical choices very much, and its methodology is comparatively inclusive (see Baur & Ernst, 2011). However, I believe that the performativity of law as a process of reiteration can best be grasped by tracing the repetitiveness of analyzed themes as a stylistic and linguistic correlate of the repetition of outsider identity imposition in an unequal setting. This view supports my predominantly qualitative

approach. When applying this approach in the form of a very close reading of my data, I refrained from relying on preconceived ideas of how exclusion would be performed. By using thematic analysis, I specifically hoped to avoid one potential pitfall: that my legal training and resulting expectations would bias me toward either underestimating or overestimating the performative elements that appear to be at odds with the legal frame of the resolutions applied in the data. I decided to focus on the content first and not on the effect of the frame itself, and only to revert to the combination of both at a later stage of the analysis.

Here, I focus on the articulations of values in the resolutions and the structure of argument against so-called “LGBT ideology” as part of the construction of social space and collective identity on the part of local communities. Since my goal was to analyze the resolutions in the context of the larger anti-LGBTIQ campaign, I deliberately omitted some other themes that would merit studies of their own, such as the image of the family or perceptions regarding the duties of local authorities in providing public services.

5.1 | “Freedom from LGBT Ideology”

As far as I could ascertain, there is no published common blueprint underlying the “Freedom from LGBT Ideology” resolutions. Nevertheless, the resolutions vary only limitedly. Therefore, I illustrate the findings of my analysis with reference to one exemplary resolution adopted by the Świdnik County Council on March 26, 2019, noting significant variants within the sample.

The one-page resolution was drafted like a legal document with numbered paragraphs. The resolution includes a preamble that presents the resolution as a response to an act of aggression launched by forces identified as “radicals pushing toward a cultural revolution in Poland.” This aggression, the resolution claims, targets “freedom of expression, the innocence of children, the authority of the family, and freedom of business.” In several resolutions, the identification of radicals was more detailed, listing “left and liberal politicians” and “LGBT organizations.”

The long tradition of respect for “life, family, and freedom” is given as a reason to refuse intervention in Poles’ private lives—the implication being that such an intervention does not come from the Poles but from someone else. In a few resolutions, the West is mentioned or alluded to as the source of the threat.

The primary locus of hostile intervention is the schools. Their agents are “functionaries of political correctness” and “friends” interested in the early sexualization of Polish children according to “so-called standards of the WHO” (some resolutions use “demoralizers” instead of “friends”). The use of the qualifier “so-called” in reference to WHO standards serves to delegitimize them, and it conveys doubt as to what these “friends” are teaching children in alleged accordance with WHO recommendations. At the same time, in two resolutions, the “standards of the WHO” are expressly rejected, with no appearance of the mollifying and double-edged term “so-called.” Thus, while most resolutions only indirectly undermine the legitimacy of the WHO itself, some of them delegitimize it overtly.

The theme of an intervention in private life focuses on the “administrative pressure” exercised on “some professions” to apply political correctness, which is “sometimes and justly called homopropaganda.” The administrative pressure results in an imposition of “unprofessional criteria of action,” including the choice of employees or contractors. Again, this is a clear response to the provisions of the Declarations passed in the big cities. However, apart from that, the question of the relation of “professional criteria” to non-business considerations also arises here: by postulating the protection of professionals against political correctness, the resolution raises the apparent side issue of economic freedom and asserts the value-neutrality of business principles.

The final section of the resolutions mentions several momentous historical events. Specific dates appear in most of the resolutions, sometimes with a detailed year count, and most often

mention the baptism of Poland—“1053 years after the baptism of Poland”—which is the standard starting date of Polish statehood and the beginning of the country’s Christian history.

While a first reading of the resolutions might create the impression that they are a manifesto of conservative religious communitarianism, a second reading does not support this interpretation. On the one hand, there is a layer of positive references to national history (with strong religious coloring), along with traditional conservative values of family and the innocence of children. The value of freedom itself is also interpreted conservatively as a community’s right to practice its way of life without the pressures of “political correctness.” Symbols serve a community’s self-expression and stress the continuity of the community construed as a part of the national being (“Polish children,” “Poles’ private lives”). On the other hand, the reference to the freedom of business from administrative pressure introduces a liberal motif of unrestrained economic activity as a value in its own right. “Professionalism” is mentioned to reinforce this meaning by connecting it to a value that is very difficult to challenge in any capitalist society. As an auxiliary argument, nine resolutions invoke the Constitution and constitutional rights, with such arguments appearing most often in resolutions styled in a more juristic manner. These communities’ desire to respond to the LGBT+ Declarations adopted by the big cities may explain this exceptional duality of argumentation. However, independent of this discursive context, the overall framing of the rejection of LGBT ideology is provided by the idea of participation in a historical national community informed by religious values by way of individually exercising liberal rights and liberties, especially in the economic sphere.

5.2 | Charter of Family Rights

The Charters of Family Rights (2019) are based on a model document, which I refer to henceforth as the “Charter (2019),” prepared by *Ordo Iuris*, and the variability in the content of these resolutions was even smaller than in the case of the resolutions of the Freedom from LGBT Ideology type. I base my analysis on the published English version of the model document (Charter, 2019), which is a 12-page illustrated booklet. I will begin with the findings of the thematic analysis of the text, and I will then combine it with an analysis of the visuals.

The document is preceded by a listing of legal acts and provisions, beginning with the Constitution. The next page, which features a full-page shot of a red and white book entitled “Constitution” and a family photo, quotes Article 18 of the Polish Constitution, which proclaims the protection of marriage as a union of man and woman, as well as of family, motherhood, parenthood, and children.

In the first part of the body text, the resolution’s goal is given as “strengthening the family . . . and ensuring its protection against influences of the ideologies that undermine its autonomy and identity” (Charter, 2019, p. 5). The ideologies in question are left unnamed. The Charter is divided into six sections: children’s rights in education, families’ rights in social policy, social services adapted to families’ needs, families’ rights in business, monitoring, and the enforcement and enactment of family-friendly laws. Therefore, apart from school and business, which are featured in the Freedom from LGBT Ideology type resolutions, the Charter texts include a number of new themes, including local legislatures, social services, social policy, and public spending.

In the Charter (2019), the education theme focuses directly on the role of parents in the education of their children. The Charter (2019) stresses that “[t]he role of the education system is not to replace family upbringing. Unfortunately, in practice, even the statutory rights of parents are often ignored in the course of school and preschool education” (Charter, 2019, p. 7). A detailed list of suggested good practices regarding parents’ right to information and involvement in school activities follows. Therefore, schooling becomes an aspect of the integrity of the family more than a public policy in its own right.

Protecting the integrity of the family is contrasted with domestic violence and alcohol and substance abuse policies, and concern is expressed about “pathological situations [as a reason for] disproportionate, unfounded interference in the life of families” (Charter, 2019, p. 10). Thus, the point of violence against LGBT persons is readdressed and reframed: violence is not a structural phenomenon but a pathology, and any justified intervention to counteract violence is framed as a fight against pathology. The same point is introduced in the context of needing to provide local officials with

reliable and ideology-free information about the existing legislation and effective methods of preventing any undesired phenomena, such as violence, addictions, and other dysfunctions that may happen in households and public space. Even though empirical studies clearly confirm that strong family bonds effectively protect against violence, this basic knowledge has been undermined at many seminars delivered thus far (Charter, 2019, 10).

As the seminars are not named and the “many” is imprecise, the remark qualifies as an allusion. At this point, reference is made to NGOs offering informational materials and training about preventing violence within the family, thus undermining the “basic knowledge” about strong family ties being protective. Thus, Charter (2019) affirms common sense knowledge about family based on everyday experience and juxtaposes it with the allegedly scientifically grounded, heteronomous “information” coming from actors such as NGOs, who are not a part of the organic order of family life.

As a means of protecting family rights, the Charter introduces the idea of establishing a Community Speaker for Family Rights, who would “monitor . . . the observance of family rights and intervene whenever they are breached” (Charter, 2019, p. 11). The institution of the Speaker is symmetrical to the institution meant to defend LGBT rights proposed in the Declarations adopted by the big cities. The Charter (2019) ends by introducing a “principle of family mainstreaming” (Charter, 2019, p. 11). It also advocates distributing tax money so as “to exclude any chance of allocating public funds and public property for projects that undermine the constitutional identity of marriage as a relationship between a man and a woman or the autonomy of the family” (Charter, 2019, pp. 9–10).

There is an almost exact symmetry between the proposed regimes of legal protection of LGBT rights in the LGBT Declarations and the protection of family rights envisaged in the Charter (2019). However, the references to the ongoing conflict surrounding “LGBT ideology” in the Charter (2019) are not direct. Conflict lines run parallel to those presented in the Declaration, to which the Charter (2019) is a structured response. Therefore, the latter repeats the duality of value-basis found in the “Freedom from LGBT Ideology” resolutions: the protection of the family and children is framed as an essentially liberal, individual, and subjective right guaranteed by the Constitution and statutes.

The practicality of many of the measures suggested in the Charter (2019) has the effect of reassuring those who would hope that “something can be done” about the threats to the family that the Charter diagnoses. That fact that all these practical measures are envisaged as being applied at the local self-government level is seemingly at odds with the predominance of the national semantic. However, by suggesting that the national community is also organized around the family and that any support the family may gain locally also benefits the nation, the Charter (2019) provides powerful fuel for initiatives at the local level. The same effect can be ascribed to recurrent references to the Constitution (twenty occurrences in the text).

The mention of constitutional articles and paragraphs (six instances) and the use of the word “rights” (fifty instances) in the text evokes a notion of legal professionalism and concreteness. The generous use of constitutional quotations and legal vocabulary also contributes to the differences between the Charter (2019) and the Freedom from LGBT Ideology resolutions. The

Charter (2019) does not seem to be directed against anyone in particular: the contentiousness is only decipherable assuming sufficient knowledge of context. The document stresses the positive nature of its aims and the accordance of its value-based goals with the common legal basis of the Polish public order. The Charter (2019) reads as a message prepared by middle-class people—not fanatics or partisans—for middle-class people, without a single mention of religion or any strictly religious values.

The images included in the Charter (2019) booklet reinforce its message, but they also add up to a narrative that accompanies the text. There are a number of photos of families. In the opening picture on the first page, the focal point is an image of a man and a woman in their early thirties with two children. In the background, to the right, we see a smiling senior couple, slightly blurred. Everyone in the picture is smiling (and everyone has good white teeth), and they wear casual clothing in pastel shades. Whiteness and light dominate the background. Two further photos maintain the same aesthetic. One shows a man and a woman flanked by four little girls, and the other shows a man and a woman at an office table with a man in a business suit, captioned “Family Rights Ombudsman.” The pictures—which exude the apparent normality of heteronormative multigenerational family life—are accompanied by a series of pictorial elements that, as though to compensate for the lack of references to national history in the text of the Charter, build up national and historical framings equivalent to the references to national history in the Freedom from LGBT Ideology resolutions. For example, an image of a white eagle and the red and white outline are reminiscent of Poland’s coat of arms and flag colors. This visual narrative seems to be at odds with the matter-of-factness and juristic stylization of the textual component. However, the visuals respond to the text by concretizing the threat to the family, thus increasing the plausibility of solutions proffered by the document.

6 | DISCUSSION: THE LAW IN THE ESTABLISHED-OUTSIDERS DYNAMIC

My discussion of these findings follows the three dimensions of the social exclusion of outsiders: institutional, symbolic, and proxemic (see Bucholc, 2011). For each dimension, I compare the two types of resolutions, considering the performative efficiency of the legal frame as applied to various themes that depend on the dimension of exclusion under scrutiny.

6.1 | The institutional dimension

Legal acts are decisive for the institutional dimension, as they include formally sanctioned social norms whose empirical validity is supported by formal authority. If the law comes from democratically elected officials, it can gain additional legitimization in proportion to the strength of the lawmakers’ democratic mandate. The potential for institutional exclusion is included in the resolutions of local self-governments. While the Freedom from LGBT Ideology resolutions state the value commitments of institutions that operate within the local community and establish directions for future action, the Charters of Family Rights are much more detailed and readily translatable into policymaking. However, both types of resolutions are based on the division of the respective local populations into two mutually exclusive categories.

Both types of resolutions introduce and enhance a differentiated perception and open the possibility of a different treatment of persons identified as bearers of the “LGBT ideology,” an “ideology hostile to families.” Their effect consists in declaring local communities as unified against the “LGBT ideology,” as we may notice in the generic wording: “We, the inhabitants of community X, hereby declare that we do not agree.” The law—as any law in a democracy—is made by a generalized “us” in accordance with its values. While the distinction between

LGBTIQ people and others does not translate directly into citizen's rights and obligations, it creates a sense of general acceptability toward binary distinctions that establish those who are a part of "us" and those who are not. Through this, a distinction is performed that translates into belonging—or not—to the lawmaking community.

The institutional level on which the resolutions are taken has a direct bearing on the performance of exclusion. The fact that they come from local self-government entities provides the resolutions with a surplus of representability that cannot be claimed by any collective action of any number of private individuals, nor by any law made centrally at the state level in a unitarian state like Poland. This corresponds to the fact that local institutions enjoy the greatest trust of all public authorities in Poland, much more than any central institutions (see CBOS, 2018, 7).

From a methodological perspective, the fact that this exclusion mostly plays out at the level of local self-government is of primary importance. Elias's original theory described informal small-scale processes within a local community. Exclusion in Winston Parva was performed by the gaze, gossip, gestures, and movements of people who met daily and easily identified each other as belonging to one of two categories. This led to an orchestration of behavioral patterns. Formalized and official expressions of exclusion, along with any official articulations of reasons for exclusion, increase the chances of coherent action upon the resolutions in the future. The legalistic language in which the postulates are phrased is a particularly powerful instrument of coherence. Therefore, even though the wording of the Freedom from LGBT Ideology resolutions is more direct, as they identify the enemy more clearly and connect values and attitudes more immediately with the rejection of the outsiders, the Charters of Family Rights are, in fact, more viable as instruments of long-term exclusion.

The Charters of Family Rights belong to the same range of strategic devices as those discussed in Elias's and Scotson's original study. The established group in their study did not focus exclusively on naming and shaming the outsiders, focusing instead on their own superiority and gaining visibility: praise and blame gossip went hand in hand. Their sense of moral superiority translated into a coherent behavioral scheme orchestrated throughout the community, and only in this manner was institutional exclusion accomplished. Law may carry and foster a collective sense of superiority and perform exclusion by expressing the co-extensiveness of the morally superior group with the local lawmaking "us." Law made by local communities is a powerful, institutionalized collective act that claims to be made by all, even if it is made against some.

Incidentally, the fact that the resolutions have been adopted on all three levels of local self-government indicates that, at least in southeastern Poland, a vertical consensus may be forming throughout the local social figuration about abolishing the so-called "LGBT ideology" from public life. Coherent action by lawmaking institutions on all three levels enhances the effect of unity of the established, and the territorial consistency of the wave of resolutions supports the claim that there is a geographical component to the opponents of "LGBT ideology."

6.2 | The symbolic dimension

The symbolic dimension of the anti-LGBTIQ campaign is structured by several well-defined pivotal themes: the definition of national identity, the relationship between national and religious identity, the defense of religious values, the protection of religious and traditional values as an identity-relevant task of state and local self-government, and the protection of family rights and children's rights as a constitutional value to be realized by state and local self-government alike. However, the interplay between various institutional levels is evident: while some symbols are related to the state and are per se nationally relevant, others must gain universality in another way. The identity-relevant distinction created on the institutional level plays out in a game of universalizing claims.

Proponents of both types of anti-LGBTIQ resolutions set their respective discourses on a possibly high level of generality, employing symbolic resources that allow for maximum mobilization of supporters. Moreover, they strive to refer to values that would be hard for the other side to contest. For example, while the anti-LGBTIQ side heavily stresses the well-being of families and children—by advocating the equation of LGBTIQ with pedophilia with sexualization with sexual education—there is a broad range of other value-related arguments that arise in the liberal repertoire: equality, freedom of speech, freedom of conscience, and freedom to pursue business goals. Values that would in the continental tradition relate to socialist sensitivities appear as well, namely supporting those who are most in need of support (i.e., families, especially large families) or directing social and public services toward those who have the most legitimate right to them because of their weak starting position.

Again, two argumentative strategies are applied in the two types of resolutions: while the Freedom from LGBT Ideology resolutions focus on what it means to belong to the community in its historical dimension and work to exclude LGBTIQ people by portraying them as hostile to the symbols of national identity, the Charter of Family Rights resolutions focus on the enhancement of normality. In Elias's and Scotson's research, the established reflect on the differences between "us" and "them" in terms of "doing things differently," implying that "their" ways are abnormal and that "our" ways set the gold standard for normality. Pastel-colored, multigenerational, heteronormative families are the projection of what the nation is as a cultural body constructed from national-conservative positions.

The anti-LGBTIQ campaign focuses on the values that it presents as actively under attack by the "LGBT ideology": the traditional Catholic family, an innocent childhood not burdened by premature knowledge of sex, and appropriate behavior in public. The framing in this case is one of self-defense and blameless victimhood, which appears in both types of resolutions: both are directed against hostile ideologies that "started the ideological war." The ideological nature of the war is further stressed by emphasizing in a number of resolutions that "LGBT ideology" is an attempt to "impose artificial and exaggerated problems" onto the public. In one case, LGBTIQ people are directly mentioned as a "minority" that aggressively aspires to a status to which it has no right, at least based on its numbers. The hostility against the minority in this case triggers a moral panic of a transformative type, which has the potential to introduce a normative change in society using instruments such as the anti-LGBT resolutions (see Jawor, 2019).

Any mention of war naturally has a direct relevance for national identity; the connection between warfare and the nation-state monopoly is as well-grounded in popular imaginaries as it is in international relations (Appadurai, 2006, 15ff). By mentioning war, a symbolic resource is activated that rests in the cultural layers of memories of previous wars. In the case of Poland, this resource supports the framing of the "LGBT ideology" as a menace: the memory of wars in Polish history is dominated by images of the Second World War and Germany's responsibility for the war (see Gliszczyńska-Grabias, 2019; Kwiatkowski, 2006). Modern Germany—the EU's "reluctant hegemon" (Bulmer & Paterson, 2013)—is identified by the resolutions as the promoter of political correctness expanding throughout the European Union. The threat of "LGBT ideology" has its origins abroad, in the West, in the Germany-dominated European Union, where same-sex marriage is slowly becoming a standard. Joanna Chojnicka summarizes this string of inferences as follows:

[T]he EU is conceptualized as a space, symbolic and physical, from which all the dangers of modernization come from. LGBT people can easily be hated because they are a *European invention* as they do not belong to the in-group of the traditional (Polish) nation; and Europe can be hated because it lets the LGBT people in (Chojnicka, 2015, pp. 49–50).

The "LGBT ideology" is perceived as a foreign, dangerous, and overtly hostile innovation, a package marked with the label of "gender," which Agnieszka Graff and Elżbieta

Korolczuk (2022, p. 1) describe as “the center of the new phase of culture wars.” Consequently, the Western and urban claim to set a new standard for defining sexuality—along with family and human rights—is construed as an attack on those who “have been here first,” both chronologically and morally. The “here” in question refers not only to a physical space (Poland as an idealized whole mediated by its various localities) but also to a moral space. The references to milestones of Polish national history are used to this end: those who evoke the historical path of Poland thereby declare their adherence to the nation’s tradition and declare that the same tradition does not include homosexuality at any point in time, from which the resolutions draw a conclusion that any continuation of this tradition in the future excludes homosexuality.

Social constructions of space have both moral sources and moral consequences (see Löw, 2016). In this case, the moral construction of “Polishness” is performed by territorializing collective identity while simultaneously removing certain persons who reside in the territory, linking the physical space with the moral one. The social space thus created is paradoxical: it includes elements that do not belong to it, despite actually and physically being there. An established identity is only available to those with a proper value-based legitimation, with the others being legally performed into nonexistence.

The moral territorialization involves a reconstruction of habitus. Value attitudes translate into a consistent pattern of thought, behavior, and action, as indicated by the notion of the “homosexual lifestyle” in anti-LGBT resolutions. Families depicted in the Charter (2019) booklet convey massive information about their habitus, demonstrative of the established normality. The Charter (2019)’s language supports this imagery through its composed and well-balanced practicality and its subordination of all value-based judgments to the superior legal act of the Constitution. This positioning implies that the communities which adopt the Charters of Family Rights make no value choices; they simply pronounce their adherence to the universal binding values proclaimed in the highest laws of the country.

6.3 | The proxemic dimension

The proxemic dimension of exclusion is obviously addressed in such indicative actions as the “LGBT-free zone” stickers sold with *Gazeta Polska*. The stickers are labels that transform the marked space. A semantic operation performed by the use of a sticker divides the space and marks off the zone unavailable to LGBTIQ people, or at least in which they are not welcome. At the same time, the semantic operation expresses the ideological stance of the person who marked the space. In this case, symbolic and proxemic exclusion go hand in hand. The message of the sticker seems aimed at creating a disposition to avoid certain places and, more importantly, to reveal the true colors of the persons who display the anti-LGBTIQ message on their premises. The symbolic dimension of exclusion is more directly accessible here than the proxemic one, even though the use of the word “zone” might suggest otherwise. It increases the effect of adversely moralizing the social spaces in which LGBTIQ people physically move.

The Charters of Family Rights do not display a strong proxemic aspect. Their focus is on the symbols, and the proxemic effect is mediated both by the moralization of space and by the coalescence of the local and the national, which consists in pronouncing the unity of the local self-governments that adopt the Charters with the nation by way of compliance with constitutional values. This is evidenced by the recurrence of the symbolic territorial image of Poland in the Charter (2019): the association of territory, law, and values is performed by visual and textual means alike. This operation, which results in the moralization of the whole social space of the nation-state, is a proxemic effect that cancels LGBTIQ people out of Poland at large. However, this is not a direct exclusion, and the territorial aspect is not the most pronounced.

Whereas in the Charters of Family Rights the proxemic exclusion seems secondary, it is very different in the case of the resolutions of the Freedom from LGBT Ideology type. The latter also

best demonstrate the use of law as an instrument of exclusion. As a result of their democratic claim to have been taken up by the whole community, these resolutions declare the entire territory occupied by such a community to be free from something.^{viii} By this performative use of legal language, LGBTIQ persons living in such a territory are thus put in a paradoxical position: they are physically present in the space performatively marked as free from people such as they. I call this vicarious proxemic exclusion: physical exclusion by changing the character of the social space so as to make it unlivable for some categories of its inhabitants. A resolution defining a community's space in moralistic terms transforms the space and changes its proxemics vicariously, without the otherwise necessary governance of interpersonal closeness. An LGBTIQ person can no longer feel related to this space in the same manner as a non-LGBTIQ person because the symbolic texture of the space has been changed by the force of the legal performative.

7 | CONCLUSION

The resolutions analyzed in this article constitute legal performances of exclusion that work through the territorialization of identity, the moralization of space, and the creation of vicarious proximity, ultimately culminating in the rejection of LGBTIQ people

The atomization effect of the exclusion of LGBTIQ people is partially neutralized by several factors, one of which is European integration, which introduces supralocal interdependence. This interdependence was activated in the case at hand, as shown by the resolutions of the European Parliament and by the reactions of the European Commission, which included the withdrawal of funding for the communities that enforced these resolutions discriminating against LGBTIQ people. The institutionalized integration of most European countries and the existence of the LGBTIQ movement introduced a factor of supralocal interdependence that is absent from Elias's and Scotson's original study.

The fact that the effect of international interdependencies has been shown to be ineffective in some cases—such as in the Małopolska region, which upheld its resolution in August 2021 despite the threat of losing EU funding^{ix}—stresses the need to situate these findings within the broader context of the culture war, which, according to some, has been ongoing in Poland for many decades, with traditional Catholic values and modernization at stake (Grabowska, 2014; Graff, 2014). Thus, resistance to the metonymic “LGBT ideology” would be an epiphenomenon of the long-standing resistance to Westernization and secularization, as well as of broader social divisions, particularly that between urban and rural areas (see Szelewa, 2016). The anti-LGBTIQ campaign represents the legal performance of an exclusion that runs deep into the sociocultural framework of Polish society.

Subversion of this legal performance of exclusion relies on the successful countering of this sociohistorical setup. Discussing what she calls the “expropriability of law,” Butler mentions a subversive comic's use of the familiar maternity ward gender performative “It's a girl!” (1993, 232):

Hence . . . the peculiar pleasure of the cartoon strip in which the infant is first interpellated into discourse with “It's a lesbian!” Far from an essentialist joke, the queer appropriation of the performative mimes and exposes both the binding power of the heterosexualizing law and its expropriability.

An LGBTIQ person is a concrete bearer of an identity, and means of law can be re-appropriated to perform this identity. This message supports claims of institutional representability, symbolic participation, and proxemic nearness so as to counteract the effects of the legal territorialization of identity and the moralization of space. Many bottom-up reactions to the anti-LGBTIQ campaign—such as the one by Staszewski with which I began this article—show

that such subversive claims are indeed being raised. Their future effect depends mostly on the understanding of the synergy among institutional, symbolic, and proxemic dimensions of LGBTIQ people's exclusion.

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ENDNOTES

- ⁱ Throughout this article, I use the acronym LGBTIQ, which I believe to be the most inclusive, unless citing or referring to documents, expressions, or discourses that use other abbreviations.
- ⁱⁱ I am using the term "liberal" here according to the meaning established in Polish politics as a reference to Platforma Obywatelska (PO; Civic Platform), which was in power in Poland from 2007 until 2015.
- ⁱⁱⁱ Among those noted to have supported the distinction between "people" and "ideology" was President Andrzej Duda—see <https://www.rp.pl/Wybory-prezydenckie-2020/200619782-Andrzej-Duda-o-LGBT-Probuj-a-wmowic-ze-to-ludzie-To-ideologia.html> (accessed January 21, 2021).
- ^{iv} Since March 2021, the conditionality mechanism is being reviewed by the Court of Justice of the European Union (Hungary v Parliament and Council, C-156/21; Poland v Parliament and Council, C-157/21, pending).
- ^v This is a quote from an interview conducted by Radio Łódź, a local radio station, on May 6, 2019. The full article is available here: <https://www.radiolodz.pl/posts/52684-rada-powiatu-lowickiego-jako-pierwsza-w-polsce-przyjela-samorzadowa-karte-praw-rodzin> (accessed on May 1, 2020).
- ^{vi} See the interactive map prepared by Kuba Gawron, Paulina Pająk, and Paweł Preneta at <https://atlasnienawisci.pl/> (accessed 19/01/2021). Kuba Gawron and Paulina Pająk also maintain a regularly updated detailed list of resolutions on which these numbers are based, available at https://docs.google.com/spreadsheets/d/15yrxAGCj9RKop_IBz35OuD5KKySIHUVnpfJ2b5W8Xg/edit#gid=1811247053 (accessed January 31, 2022).
- ^{vii} The remaining resolutions did not adhere clearly to either of the two types. The numbers are changing constantly, since some communities are revoking the resolutions while others are currently in the process of debating them.
- ^{viii} Hence, probably, the somewhat misleading use of the phrase "Polish LGBT-free zones," especially in the international discourse (see e.g., van der Leyen, 2020), as though the stickers and the resolutions were the part of the same project or used the same wording (see Bucholc, 2020a).
- ^{ix} See <https://www.politico.eu/article/malopolska-region-poland-anti-lgbtq-resolution-threat-of-losing-eu-cash/> (accessed 24 August 2021). The region subsequently revoked the resolution in September 2021.

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