Patchwork compliance: political dialogues about contested human rights

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1.1 Introduction

Jordan is committed to the full implementation of the UN's women's rights treaty CEDAW[1], declared then Jordanian prime minister Abdullah Ensour to an engaged international audience in 2012.[2] His country was hosting a UN conference on the promotion and protection of human rights, and Mr. Ensour was giving the opening speech in the capital Amman.

Though his comments were directed at Jordan's international partners, a group of Jordanian women was not going to let Mr. Ensour's remarks go unnoticed in Jordan itself. Right on Queen Rania Street, one of the capital's main arteries clogged by heavy traffic, 150 women formed a human chain, carrying signs and chanting slogans. One sign read "CEDAW is the destruction of our homes", another "Anything but our homes". The activists told a journalist "We are here to reject the prime minister's remarks" as these "threaten the security and stability of our [families]".

The women demanded an apology and a retraction of Mr. Ensour's statement. They believed he had made his promise to implement women's rights under pressure from other governments and international organizations, whose demands "do not comply with our traditions, culture, morals, or beliefs."[3] The apology never came. Yet, at the time of writing, Mr. Ensour's promise and commitment remain incompletely fulfilled at best. While Jordan has increased compliance with some articles of the CEDAW, it has back-tracked on and refused compliance with many others.

This is not unique to Jordan – on the contrary. The protests on Queen Rania Street point us to a possible explanation for a pattern that we see around the world, and that I call patchwork compliance. States tend to comply with some articles of a treaty extensively, only up to certain extent with some, and ignore or openly violate others – all at the same time.[4] There are very few states, if any, that are in full compliance with human rights norms.[5] Up to now, we have not been able to fully unravel these patchworks of compliance, or clarify the decision-making processes that create them.

This project takes up that challenge. It argues that we can only unravel these patchworks by zooming in on the apparent contradiction as illustrated by the scene on Queen Rania Street in Jordan: while compliance with human rights norms can improve decision-makers'

1 Convention on the Elimination of all forms of Discrimination Against Women.
2 "No grounds", *Jordan Times*, November 13, 2012
3 Rana Husseini, "IAF women members protest against CEDAW", *Jordan Times*, November 14, 2012; Rana Husseini, "Islamists urge Ensour to retract statement on CEDAW reservations", *Jordan Times*, November 12, 2012.
4 Cardenas, 2007; Fraser, 2019; Hawkins & Jacoby, 2010; Hillebrecht, 2014:1108; Zimmerman, 2017
5 See, for example, the study by Hill, 2010. Cardenas, 2007; Fraser, 2019; Hawkins & Jacoby, 2010; Hillebrecht, 2014:1108; Zimmerman, 2017

standing within the international community, it can at the same time constitute political suicide for them with regard to another community.

To theorize how decision-making processes on compliance are shaped by this contradiction, the current project proposes a political dialogue model. This theoretical model helps us to understand how patchworks of compliance are created by political decision-makers, who need to mediate between the mismatching norms of different communities. It demonstrates how and why they do not necessarily choose the norms of one community over the other. Rather, they can rely on political dialogues to create consensus between seemingly mismatching norms of the different communities.

In such dialogues, parts of human rights norms are discussed, accepted, rejected, diluted to fit other communities' norms, or traded for other, often unrelated, laws and policies. When successful, such dialogues allow decision-makers to make small increases in compliance with human rights norms. Yet, precisely because the dialogue creates consensus between different communities, the outcome will not be full compliance. Moreover, these political dialogues do not always result in consensus between the different communities. Particularly when communities come to feel they are not sufficiently represented in the dialogue, or their norms are violated, a backlash effect against human rights can develop. Such backlash effects can further complicate decision-makers' compliance choices, lead to decreases in compliance, and make future attempts to increase compliance even more difficult. It is these processes of political dialogue that eventually result in the widely varying patchworks of compliance.

The focus of this project is timely. Increasingly, we are witnessing a weakening of the international human rights regime that goes hand in hand with a growing focus on national identities and norms. This means it is high time we grasped the way in which the apparent mismatch between the norms of different international and domestic communities influence political decisions on the protection and violation of human rights. If we gain a better understanding of the influence of normative mismatches of different communities on political decision-making processes, and how these result in patchwork compliance, we will be better able to strategize when and how human rights can still be used effectively to protect marginalized people around the world – and when they cannot.

To conclude, this project proposes a political dialogue model to unravel patchworks of compliance with human rights. It theorizes a political decision-making process which is instigated by state actors, and which can find or create consensus between mismatching normative preferences of different communities. The goal of the political dialogue is to make it possible to reach a decision on compliance that is accepted by the communities

involved, despite their mismatching norms. When such dialogues are carried out carefully by state leaders, they can result in small increases in compliance that are accepted by most communities involved, even if norms initially were or remain a mismatch. However, when communities come to feel they are ignored or their norms violated during such dialogues, backlash effects develop. Such effects can result in citizens vehemently rejecting human rights as a legitimate framework for their protection, thus further compounding the patchwork nature of compliance.

1.2 Political dialogues in between mismatching norms and compliance

The political dialogue model places itself as a pathway in between mismatching norms on the one hand, and patchworks of compliance on the other. A community's norms and human rights are considered to be a mismatch when following only the former is expected to lead to very different and opposing behavioral outcomes than would be expected from following solely the latter. This project proposes that such normative mismatches between different international and domestic communities should be understood as interactive processes, that shape and are shaped by political dialogues.[6]

Recent research has already demonstrated that such interactive processes are crucial in shaping the implementation of international norms at the domestic level. These processes take many different forms, and can be done by as many different actors. For example, vernacularization is a congruence-building process in which local NGOs translate human rights norms to fit with their respective norms and to advocate behavioral change within their own communities.[7] Another example is localization, in which norms travel from one world region to another, and are changed and molded by regional organizations to fit their normative order.[8] Crucially, these processes in which congruence is created never lead to the full adoption of international norms. Rather, they result in many different gradations of compliance, with the outcomes being dependent on the context in which the processes take place. Generally speaking, we can expect that the more human rights are made to fit existing understandings, the less radical the change they create – and thus the lower the level of compliance.[9]

Yet, none of these current theories that highlight normative interaction and congruence-building provide a theoretical model that helps to understand how state leaders make their decisions on compliance. Even though it seems evident that some kind of congruence

6 Acharya, 2004; Gurowitz, 1999; Elbasani, 2004; Krook & True, 2012; Zimmerman, 2016, 2017; Zwingel, 2012
7 Levitt & Merry, 2009
8 Acharya, 2004
9 Levitt & Merry, 2009:456-458

building process is necessary when a mismatch between international and domestic norms is perceived, none clarify the actual political decision-making process which takes place. Instead, scholars focus on consensus-building strategies developed by other actors, such as NGOs or regional organizations. These actors might affect decision-makers' choices, but they do not make the decision on compliance.[10] This is the crucial gap that this project aims to bridge.

The political dialogue model has been developed using insights on the influence of international norms on states' decision-making processes, as well as research on the influence of domestic norms, in particular the so-called cultural match hypothesis, to be able to explain patchworks of compliance.[11] These two important strands of research are further discussed below.

1.3 The influence of international norms on compliance

The international community advocating human rights has significantly influenced the behavior of states around the world over the past decades. Writing at the very end of the previous century, scholars such as Peter Katzenstein, Margaret Keck, Kathryn Sikkink, Audry Klotz, Daniel Thomas and Thomas Risse were highly successful in providing empirical evidence on this state of affairs. Their extensive research convincingly demonstrated that, and how, international norms can effectively shape states' behavior. Norms are shared expectations regarding standards of behavior that shape the interests and identities of the members of a community.[12] Because norms are shared and intersubjective, they transcend the level of the individual member.[13] Since these scholars' first studies were published, light has been shed on many different motivations for states to comply with international norms, ranging from socialization or community-based explanations, to the material cost and benefits of compliance.

A first example is acculturation, which is a process of identification with the international community. It presupposes that states care about the international community they belong to, or want to belong to. Consequently, states adopt (new) norms, because their reference group has done so. This process therefore has little to do with the actual content of the international human rights norms. Rather, states seek social approval from the community they care about. They follow the community's norms, but in a non-reflective manner.[14]
Another example are the studies on persuasion, which describe how state leaders can be

10 An-Na'im, 2000; Flowers, 2009; Grugel & Peruzzotti, 2012; Levitt & Merry, 2009; Zwingel, 2012
11 Zimmerman, 2016
12 Katzenstein 1996:18; Klotz, 1999:14; Wendt, 1999; Knight, 1992:2; Katzenstein 1996; Klotz, 1999; Thomas, 2001; Wendt, 1999.
13 Coleman, 1990:241
14 Checkel, 2005:810; Goodman&Jinks, 2013:29; Smith, 2013

persuaded by the actual content of a norm. In contrary to acculturation, persuasion involves active and reflective contemplation. When states are persuaded, they change their behavior to comply with the international norm, because they follow logics of appropriateness.[15] Finally, because states care about their standing and reputation in their community, (the threat of) naming-and-shaming can be an effective method to ensure compliance. Naming-and-shaming can be done by the UN human rights treaty bodies, other members of the community, media, or NGOs. Naming-and-shaming seems to be particularly effective when done by partners that a state has close or strategic relations with. Importantly, it is not only the actual act of naming-and-shaming that can pressure states to comply. The expectation of being named-and-shamed in itself, too, can change states' behavior. When states value particular relationships, they will anticipate and comply so as to prevent negative reactions from their partners.[16]

States have material motivations for complying with international human rights norms as well, as other members of a community can exercise coercion to reward compliant and punish non-compliant behavior. In this way, norms influence states' strategic cost-benefit calculations.[17] States, but also international organizations and non-governmental actors, can coerce by manipulating economic costs and benefits, monopolizing information or expertise, and using physical force.[18] The material benefits of compliance are most often part of trade agreements and development programs. For example, preferential trade agreements, in which compliance is taken up as a condition for trade, are likely to improve human rights behavior.[19] Material costs for non-compliance include sanctions on norm-violating states, though such punishments as a strategy to enforce compliance occur much less frequently than material rewards.[20] Naming-and-shaming can also lead to material costs for norm-violating states, such as reductions in multilateral aid.[21]

The most recent studies working on international norms have been instrumental in bringing further nuance to these findings, by zooming in on the conditions under which international norms are most effective. They found that not all states are equally susceptible to these social and material pressures and incentives. Mechanisms such as acculturation, naming-and-shaming, or material sanctioning tend to be most effective with states that are vulnerable to the international community supporting human rights. When states are vulnerable to that community, the application of pressure to comply works because actors care about their standing in a social group, or because they need the material benefits that compliance gives them.[22] This theory resulted in the findings that smaller and poorer

15 Hawkins, 2004; Smith, 2013
16 Terman&Voeten, 2017:7
17 Checkel, 1997, 2005; Cortell & Davis, 1996; March & Olsen, 1987:23; Moravcsik, 1995
18 Dobbin et al. 2007:454
19 Hafner-Burton, 2005
20 Goodman & Jinks, 2004
21 Lebovic & Voeten, 2006, 2009
22 Risse & Sikkink, 2013

countries that have an interest in belonging to the international community, and that are dependent on international aid and trade, are more vulnerable to pressures to comply with human rights. On the other hand, rich countries that are less dependent on aid and trade within the international community, are less vulnerable to such pressures.[23]

These studies shed a crucial light on why some states are more likely to yield to pressures to comply than others. Yet, they cannot explain the different levels of compliance with the different articles of one treaty. If a state is vulnerable, it is expected to work on implementing the whole treaty, and not implement a patchwork of compliance. Moreover, if we take the influence of norms on state decision-makers seriously, it is pivotal to account for other sets of norms from other communities as well.

1.4 The influence of domestic norms on compliance

States are part of an international community, but they also govern different domestic communities. Each of these communities has its own set of norms that shape the interests and identities of states just like human rights norms do.[24] This means a single state is expected to comply with many different standards of behavior from international and domestic communities at the same time.[25] When these different standards of behavior overlap with a human rights norm, decisions on compliance can be relatively straightforward, as all communities recognize it as their own norm.[26] However, in many cases, these other standards of behavior and human rights norms are a mismatch. Domestic norms and human rights are considered to be a mismatch when following only the former is expected to lead to very different and opposing behavioral outcomes than is expected from solely following international human rights norms.[27]

The question of to what extent mismatching norms affect compliance is captured by the so-called 'cultural mismatch hypothesis'.[28] In short, this hypothesis expects that the promotion of human rights norms leads to resistance and rejection of those norms within communities that prefer other, very different standards.[29] Therefore, variations in non-compliance cannot be explained by looking at international mechanisms of norm socialization and material sanctioning. In fact, even if a decision-maker is personally persuaded by the legitimacy of human rights norms, she can find herself unable to comply with them because of resistance

23 Risse and Sikking, 2013
24 Acharya, 2004; Dobbin et al. 2007: 453; Legro, 1997; Ramirez et al. 1997; Thomas, 2001, Wendt, 1999.
25 Thomas, 2001:14; Katzenstein 1996
26 Fraser, 2019; Thomas, 2001; Cortell & Davis, 2000
27 This is based on the categorization of Helmke & Levitsky, 2004, who describe the difference as divergent and convergent norms.
28 Checkel, 1999; Cortell & Davis, 2000; 2005; Finnemore, 1993
29 Elbasani, 2004 Payne, 2001; Wiener, 2004; 2014; Deitelhoff & Zimmerman, 2018

from communities that see a mismatch between their own, and the international norms.[30] Such resistance against human rights compliance can be highly effective. Once mobilized, communities and activists can try to delay, frustrate and block state leaders' attempts at compliance. They can be active at both the domestic and international level as representatives of communities that contest liberal or human rights norms.[31] Most often, their aim is to maintain the normative status quo,[32] or to try to create new rules in order to preserve their community's autonomy.[33] The example of the women's protests against CEDAW in Jordan shows such protests can be taken to the streets as well.

Though the human rights normative mismatch hypothesis is much discussed, it is not as extensively developed as theories on international norms. Consequently, the debate on the influence of normative mismatches remains far from settled. First of all, there is little empirical evidence on the extent to which normative mismatches between human rights and other norms affect levels of compliance around the world. Some case studies analysing this relation provide promising cues, such as on the influence of anti-human rights activists, but are limited to only a few countries.[34] Other empirical studies do not analyze the relation between mismatching norms and compliance, but instead study elite interpretations of domestic cultures,[35] elite characteristics,[36] regional, national and local redefinitions of international conventions,[37] civilizations and religion,[38] or norm contestation within one community.[39] Yet other studies do not distinguish clearly between a community's informal norms and formal norms, such as laws.[40]

Moreover, studies on cultural mismatches do not always go beyond either full adoption or rejection of a human rights treaty. In their most extreme form, theories on normative mismatches only see the two options of adoption or rejection as possible outcomes and do not recognize the existence of patchworks of compliance. Such explanations run the risk of painting essentialist pictures of both the local as well as the international norms being studied, and miss the important dynamics that occur when norms are adopted, adjusted, rejected, or ignored as part of political dialogues.[41]

30 Harris-Short, 2003:134; Ibhawoh, 2000:839; Zwart, 2013:561
31 Bob, 2012; Sanders, 2016
32 Adachi,in Bloomfield & Scott, 2017; Bloomfield, in Bloomfield & Scott, 2017; Clapton in Bloomfield & Scott, 2017; Zahava in Bloomfield & Scott, 2017; Grugel & Peruzzotti, 2012; Rafi & Chowdhurry, 2000
33 Acharya, 2011
34 Bloomfield & Scott, 2017; Grugel & Peruzzotti, 2012
35 Harris-Short, 2003
36 Welzel, 2011
37 Acharya, 2004; An-Na'im, 2000; Levitt & Merry, 2009; Zwingel, 2012
38 Cole, 2013; Hurrell 2007
39 Wiener, 2004; 2014
40 Flowers, 2009; Tait et al. 2019
41 Zimmerman, 2015:100; Acharya, 2004; Risse & Ropp, 1999

1.5 Other explanations of compliance

The political dialogue model proposed here is better able to explain patchwork compliance than some of the other dominant theories on compliance that do not focus on the influence of different sets of norms. These other theoretical models tend to highlight important pieces of the compliance puzzle, but do not explain the varying levels of compliance with different requirements of a treaty. They cannot detail why some articles are rejected, others are effectively implemented, and yet others are ignored – and that these processes are dynamic.

Some researchers outside the constructivist paradigm expect the ratification of human rights treaties to have little to no effect on state behavior at all. And even if it were to have an effect, ratification could even aggravate violation in some cases according to some within this strand.[42] Their explanations mainly describe human rights ratification as cheap talk and window dressing, allowing states to deflect international criticism while continuing business as usual or worsening it. States only commit to international norms out of less than sincere motivations, and do not have any intention of actually trying to comply with them.[43] Such insincere ratification then leads to a situation described as 'decoupling', in which a state has formally ratified a treaty, but subsequently refuses to change any laws, policies and practices. States are expected to be able to easily continue this pattern of persistent violation, because it does not lead to any costly sanctions. Monitoring and enforcements mechanisms are considered to be nonexistent, weak, deficient, or voluntary at best.[44]

The main issue with these explanations is that they are inadequate to explain all the instances of compliance that do occur. Though human rights violations sometimes indeed seem "epidemic",[45] there is abundant and detailed evidence on states that have changed behavior after ratification, and do comply with some international human rights norms – even if they continue violating others.[46] Consequently, this approach cannot explain different levels of compliance with the different articles within one treaty.

Another important strand of research explaining protection and violation of international norms centers around state capacity. It is different from studies that consider human rights as cheap talk or window dressing work, as it does not necessarily focus on states' willingness, or refusal, to comply but rather on their ability to do so. According to scholars working within this managerial approach, non-compliance is often unintentional and determined by a state's capacity to implement the treaty.[47] This is the case in particular for failed and

42 See, for example, Hathaway, 2002; Hafner-Burton and Tsutsui 2005, 2007.
43 Cole, 2015:407-408
44 Neumayer, 2005
45 Hafner-Burton and Tsutsui, 2005:1374
46 See, for example, Hill, 2010
47 Cole, 2015; Meyer et al. 1997

fragile states. They might genuinely desire to protect or implement human rights, but simply lack the basic capacities to do so. Evidence suggests that in particular a state's bureaucratic capacity influences state's human rights track records. This bureaucratic capacity refers to a state's bureaucratic institutions, which are needed to effectively implement political decisions, including those on human rights compliance. [48] Lacking capacity in the areas of administrative and logistical abilities leads to implementation which is lacking, while high capacity leads to a solid implementation of the treaty commitments.

It is important to account for state capacity when looking into explanations for why human rights protections may be lacking. However, this approach cannot explain the varying levels of compliance with the different articles of one treaty either. If logistical capacity is needed to follow up on ratification, we should see similar levels of compliance with all articles per individual state. We would expect states with high capacity to be in full compliance, and low capacity states to be in continued violation. Both are not the case. Crucially, theories of state capacity miss an important step when it comes to translating international human rights treaties to the domestic level. They consider the ratification of a treaty to be the only political decision-making process, after which a state would merely need the logistical capacity to follow up. However, ratification is only the start of a much longer political decision-making process that shapes the translation of the treaty into domestic legislation and policies, and in which often deliberate choices are made on which articles to implement or ignore. So, while state capacity is an important explanatory variable, it is most useful once there is a thorough understanding of the outcomes of such political decision-making processes first.

1.6 Probing the plausibility of the political dialogue model in practice

This project zooms in on two treaties to probe the plausibility of the political dialogue model. Firstly, Article 7 of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), which outlines women's right to political participation, and secondly, Article 18 of the International Covenant on Civil and Political Rights (ICCPR), which guarantees freedom of religion and belief.

Article 7 of CEDAW and Article 18 of ICCPR were selected, firstly, because both the treaties and the specific articles are firmly established within the human rights regime.[49] They are consistently monitored by the treaty bodies and 'special rapporteurs' and reinforced through additional declarations and international conferences. Consider, for example, the Beijing Declaration of 1995, which is regarded as further consolidating gender equality

48 Cole, 2015:414-415; Mann, 1984:11 in: Cole, 2015:414.
49 Berkovitch, 1999, in: Dobbin et al. 2007; Berkovitch & Bradley 1999; Bielefeldt, 2013; Krook, 2006; Krook & True, 2012; Simmons, 2009

as outlined in the CEDAW as an international norm, and the 1981 Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, emphasizing ICCPR's Article 18.[50]

At the same time, these human rights are also among the most contested of all.[51] They often touch upon the most personal experiences of individuals and families. Therefore, they tend to be considered less "universally accepted" as compared to, for example, physical integrity rights.[52] Internationally strong and at the same time highly contested norms are best suited for the aims of this project, as it seeks to zoom in on how state leaders make decisions on compliance when the international human rights community and other communities are a mismatch.

That being said, current scholarship does indicate different outcomes for different human rights treaties, suggesting that mechanisms of compliance and violation might be treaty- or topic-specific.[53] Therefore, studying both the CEDAW and the ICCPR allows for investigation as to whether the proposed political dialogue model works similarly or differently for the two treaties.

Convention on the Elimination of all forms of Discrimination Against Women

The CEDAW was opened for signature and ratification in 1979 and entered into force two years later in 1981. At the time of writing, most countries in the world have ratified it. Exceptions include the United States (US) which has signed, but not ratified, and Somalia, Sudan, and Iran, that have neither signed nor ratified.[54] The treaty outlines women's rights in a wide range of areas, including education, health, politics, and marriage. Article 7 addresses the right to political participation:

"States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
(c) To participate in non-governmental organizations and associations concerned with the

50 See, for example, the Fourth World Conference on Women, Beijing Declaration (http://www.un.org/womenwatch/daw/beijing/platform/declar.htm), and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (https://www.ohchr.org/EN/ProfessionalInterest/Pages/ReligionOrBelief.aspx). Last accessed 13 May 2021
51 Bielefeldt, 2013; Brems, 2004; Simmons, 2009
52 Keck & Sikkink, 1998, 2013; Simmons, 2009
53 Cole, 2012; Hill, 2010; Keck & Sikkink, 1999; Simmons, 2009
54 Status of ratification, http://indicators.ohchr.org/ Last accessed November 26, 2018

public and political life of the country."[55]

The General Recommendation by the CEDAW Committee accompanying Article 7 emphasizes that compliance should not only mean removing legislative barriers, such as laws prohibiting women from participating in politics. It also states that "the Convention encourages the use of temporary special measures in order to give full effect to article[s] 7 [...] States parties have an obligation to ensure that temporary special measures are clearly designed to support the principle of equality and therefore comply with constitutional principles which guarantee equality to all citizens."[56]

In this project, CEDAW's Article 7 and a community's norms are considered a mismatch when the latter are expected to lead to limitations in women's access to political participation. For instance, women's participation in politics can be obstructed because a community believes women should not participate in decision-making processes, which can be for a myriad of reasons; it might be believed that women are not allowed to participate by a god, or because women are believed to be weaker than men and therefore incapable political leaders (or both). Both examples are cases of mismatching norms because following these norms is expected to lead to a very different behavioral outcome than solely following CEDAW's Article 7, which states that women and men should have equal access to politics.

The International Covenant on Civil and Political Rights

The ICCPR is part of the International Bill of Human Rights, and was opened for signature, ratification and accession by a resolution of the UN General Assembly in 1966. The treaty officially entered into force in 1976. At the time of writing, most countries in the world have ratified it, though exceptions remain. China and Cuba have signed, but not ratified. Countries including Saudi Arabia, Oman, United Arab Emirates, South Sudan, Bhutan, Myanmar and Malaysia have neither signed nor ratified.[57] The ICCPR guarantees a broad range of individuals' civil and political rights, such as the right to life, freedom of speech, freedom of assembly, and the right to due process and a fair trial. Article 18 guarantees the right to freedom of religion and belief and reads that;

"(1) Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to

55 Convention on the Elimination of all forms of Discrimination Against Women. https://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf. Last accessed 13 May 2021

56 'General Comment No. 23 (48) (Article 7)' General Comment adopted by the Committee on the Elimination of Discrimination Against Women, 16th session, 1997, https://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom1 ; Treaty compliance is monitored in a similar fashion as the ICCPR. States are obliged to submit a report every four years to the Committee on the Elimination of Discrimination Against Women, though in practice it differs from one country to another how often a report is actually submitted. Evaluating CEDAW compliance has also been part of the UPR by the Human Rights Council since 2006.

57 Status of Ratification, http://indicators.ohchr.org/ Last accessed November 26, 2018.

manifest his religion or belief in worship, observance, practice and teaching.

(2) No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

(3) Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

(4) The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions."[58]

The Human Rights Committee adopted a further clarification of Article 18 in 1993, outlining that religious freedom includes freedom for all kinds of religions and convictions; "Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms belief and religion are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions."[59] This General Comment also stresses that religious freedom includes the right to convert, and the freedom of thought and expression regarding religion; "Article 18 [...] does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice. These freedoms are protected unconditionally, as is the right of everyone to hold opinions without interference in article 19 (1)."[60]

This project considers Article 18 of the ICCPR and a community's norms a mismatch when following the latter is expected to lead to very different and opposing behavioral outcomes as compared to solely following Article 18; meaning when following these norms is expected to lead to limitations in individuals' or communities' freedom of thought, conscience and religion, including limitations in choosing a religion or belief, or voluntarily denouncing a religion or belief. An example would be a norm that prohibits conversion or apostasy, or a norm that limits specific religious communities in practising their faith.

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58 International Covenant on Civil and Political Rights, https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx Last accessed 13 May 2021

59 'General Comment No. 22 (48) (article 18)' General Comment adopted by the Human Rights Committee under Article 40, Paragraph 4, of the International Covenant on Civil and Political Rights, 27 September 1993.

60 'General Comment No. 22 (48) (article 18)' General Comment adopted by the Human Rights Committee under Article 40, Paragraph 4, of the International Covenant on Civil and Political Rights, 27 September 1993; https://www.ohchr.org/EN/Issues/FreedomReligion/Pages/FreedomReligionIndex.aspx; The Human Rights Committee is the main UN body that monitors compliance with the treaty. All ratifying states are obliged to submit a report every four years to the UN's Human Rights Committee on how the articles are being implemented. The Committee evaluates the report, in combination with any additional reports provided by NGOs, and addresses its concerns and recommendations in a final document with 'Concluding Observations'. The actual submission of these reports differs considerably per country. Since 2006, responsibility for the monitoring of the treaty's implementation has been shared between the Human Rights Committee, which consists of treaty experts, and the UN Human Rights Council, which consists of state representatives. The Human Rights Council monitors implementation as part of the UN's four-yearly Universal Periodic Review (UPR). Freedom of religion is also specifically monitored by the Special Rapporteur on Freedom of Religion or Belief, who is an independent expert appointed by the Human Rights Council.

Mixing methods

For the plausibility probe of the political dialogue model, this project applies a mixed methods design, combining a large-N quantitative analysis with process-tracing case studies in Jordan. Such a design is particularly valuable for this study, as the quantitative analysis allows for exploring the relationship between mismatching norms and compliance on a global scale. The qualitative process-tracing methods then investigate in which way that relationship is mediated by the proposed political dialogue model. In this way, the project benefits from both the large-N approach, and the in-depth details on pathways that a qualitative case study provides.

In addition, the quantitative analysis allows for a careful and relevant selection of a typical case for the qualitative study. Typical cases for the political dialogue model are, to begin with, countries with a majority presence of communities with norms that mismatch with CEDAW Article 7 and ICCPR Article 18, and that have the smallest possible difference to the predicted level of compliance.[61] As the quantitative study in Chapter 3 will demonstrate, Jordan is such a suitable typical case.

Quantitative data and methodology

For the quantitative study, a new dataset was constructed with variables retrieved from the Quality of Government Dataset[62] and the World Values Survey (WVS).[63] The selection of the countries for the quantitative analysis is fully determined by the availability of data in the WVS. The WVS reports a random sampling strategy for respondents within countries, but the selection of the countries is not. Therefore, one-sample T-tests were conducted to investigate whether the WVS sample is representative of the global averages.[64] The results are displayed in Appendix B, and suggest that there is no reason to assume the WVS sample is significantly biased in terms of one of the characteristics known to influence levels of compliance.

The relation between mismatching norms and compliance with CEDAW were tested in a model using a multiple linear regression model, because the outcome variable is treated here as a continuous variable (percentage of women in national parliament). The variables for the ICCPR were tested in a logistic regression model, for which the original three-category variable is recoded to a dichotomous variable, with values repression (0) and compliance (1). SPSS was used for the analyses.

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61 Seawright & Gerring, 2008:299

62 Teorell, Jan, Stefan Dahlberg, Sören Holmberg, Bo Rothstein, Natalia Alvarado, Pachon & Richard Svensson. 2018. The Quality of Government Standard Dataset, version Jan. '18. University of Gothenburg: The Quality of Government Institute, http://www.qog.pol.gu.se doi:10.18157/QoGStdJan18. Last accessed 13 May 2021

63 Inglehart, R., C. Haerpfer, A. Moreno, C. Welzel, K. Kizilova, J. Diez-Medrano, M. Lagos, P. Norris, E. Ponarin & B. Puranen et al. (eds.). 2014. World Values Survey: All Rounds - Country-Pooled Datafile Version: https://www.worldvaluessurvey.org/wvs.jsp Madrid: JD Systems Institute. Last accessed 13 May 2021

64 The data available in the World Bank Development Indicators (N=193) and the Polity IV (N=160) datasets.

Qualitative data and methodology

The qualitative data was gathered from many different sources during a total of seven months' fieldwork in Amman, Jordan. It includes 59 interviews with former ministers, leaders of political committees, parliamentarians, government insiders, experts, human rights NGOs, UN representatives in Jordan, political analysts, journalists, and academics.

For each dialogue that occurred during the time period studied, from the beginning of King Abdullah's rule in 1999 up to 2017, the dialogue committee's leaders, participants, and other involved individuals were approached for interview. In addition, NGOs, IOs and semi-independent organizations working on women's rights or religious freedom were approached, as well as experts and academics. As the data collection centered around specific moments in time and specific dialogue initiatives, it was necessary to target specific individuals, as they were at that moment, for example, in or working for government or leading a dialogue. The first respondents were contacted directly and invited for an interview, for example via social media channels that are popular in Jordan or via their websites and public email addresses. After this first stage, all other contacts were established through the snowball method. The political actors interviewed were often within the same professional networks and were very helpful in establishing new contacts. This was also the case for NGOs, IOs and semi-independent organizations, and the group of experts, journalists and academics. Almost all respondents were comfortable conducting the interviews in English. The few individuals that preferred to do the interviews in Arabic invited a friend or colleague to support with interpretation. This snowball method did not enable access to the difficult-to-reach communities, in particular the Salafist and Jihadi-Salafist movement. This is why this project draws on work from other scholars, in particular Joas Wagemakers, who were able to talk to and conduct research on these communities.

The data from the interviews is supported by 50 documents, including personal notes and minutes (translated from Arabic when necessary); 145 newspaper articles from *The Jordan Times*, collected directly from the archive of the *Jordan Times* Office in Amman as most are not available online. In addition, 38 articles from other media sources were used, such as *The Economist*, to fill the gaps left by or to validate the *Jordan Times* articles. Thirty-five academic articles and books were used for the same purpose and for data on hard-to-reach communities, such as the Jihadi-Salafists. Another 42 reports were analysed, including UN reports – most from the human rights committees – and all US Department of State human rights reports, Amnesty International annual reports, and Freedom House annual reports for Jordan, in addition to those of several other relevant NGOs. Finally, two (auto) biographies of King Hussein and King Abdullah II of Jordan were used as sources. Appendix E outlines all data sources in more detail, and explains the selection of the newspaper articles. The reasons for selecting Jordan as the case study are based on the findings from

the quantitative analyses, and are further elaborated on in Chapter 3.

Process-tracing was used as the methodology for the qualitative part of the study. This is the most suitable method, because it enables the in-depth investigation of processes that mediate the relation between the independent variable, or cause, and the dependent variable, or outcome.[65] Data-triangulation was a crucial element of the analysis. It allowed for cross-checking whether the data from one source was corroborated by data from another source. For instance, media articles were used to double-check stories and facts learned through interviews, and vice versa. However, especially for the interviews with individuals who were involved in political activities that were closed off from media reporting, this was not always possible. In those cases, personal notes and minutes were collected where possible, or several other individuals that were involved in the same activity were interviewed to corroborate their stories.

All the qualitative data was loaded into the program Scrivener for analysis.[66] This improves the quality of process-tracing, as it allows for building timelines, creating separate data folders for each time point and each year, and inserting the relevant data per year, month and day. This way, the vast amount of data was dealt with in a highly structured manner, also making triangulation easier.

1.7 Plan and findings of the study

Chapter 2 presents the political dialogue model and outlines the central propositions of this project. To understand how decisions on compliance with contested human rights are made, the chapter details how state leaders can shape decision-making processes over human rights compliance in such a way that an outcome becomes possible which is acceptable to the parties at all levels involved, even if their norms are considered to be a mismatch, and how this results in a patchwork of compliance.

The chapter highlights the fact that decision-makers are likely to start a political dialogue when they wish to or see the need to comply with international human rights norms. This is dependent on two scope conditions: vulnerability to the international human rights community, and how often and how extensively a state is evaluated by other members in the community on its compliance record. Under these conditions, a political dialogue becomes necessary for state leaders to be able to move towards compliance, without being berated or punished by other communities whose norms they see as a mismatch with a human rights norm.

65 Bennett & Checkel, 2014; Seawright & Gerring, 2008; Beach & Pederson, 2016
66 https://www.literatureandlatte.com/scrivener/overview

The space that decision-makers have to create consensus within that dialogue is again dependent on two path-shaping conditions, which are the state's vulnerability to the other communities involved, and the specificity of their respective norms. When the state is not very vulnerable to other communities, and their norms are not highly specified, the decision-maker can draw on various different strategies to create consensus and increase levels of compliance. These strategies include selecting specific participants, setting a restricted agenda, persuasion, reverberation and side-payments. However, the higher the state's vulnerability to other communities and the more specified their norms are, the less space decision-makers have to deploy such strategies.

The theoretical model proposed in Chapter 2 outlines how, eventually, the attempts to create consensus through the use of these strategies result in patchwork compliance; decision-makers implement some articles but ignore or intentionally violate others. Consequently, the strategies used and trade-offs made in political dialogues might make human rights compliance acceptable to the different communities involved, but it also renders human rights protection less than perfect.

In Chapter 3, the first two of the propositions are explored in a quantitative study. It focuses on the relation between the cause, scope conditions and outcome of the political dialogue model. These are normative mismatches, compliance with strongly monitored human rights, and international vulnerability. The findings suggest that normative mismatches are significantly correlated with lower levels of compliance. This finding is consistent for both CEDAW Article 7 and ICCPR Article 18. Yet, further probing of that relation also suggests interesting differences between the two treaties.

In the case of the CEDAW, the relation between the presence of communities with norms that are a mismatch with the Treaty's Article 7 and compliance with that Article is mediated by states' international vulnerability. The relation between the presence of such communities and levels of compliance is weaker in states that are vulnerable to the international human rights community. Or, to put it differently, highly vulnerable states seem more willing to increase their level of compliance, despite a mismatch between their domestic communities' norms and human rights. On the other hand, the relation between mismatching norms and compliance is stronger in states that do not have that vulnerability. That is to say, states that are not vulnerable to international human rights pressures seem more likely to abide to their domestic communities' norms instead. In short, these findings suggest that states with a large presence of communities adhering to norms that mismatch with CEDAW Article 7, but that are also very vulnerable to the human rights community, show higher levels of compliance as compared to states that have a similar presence of such communities, but who are not vulnerable.

This is not the case for the ICCPR; regardless of the extent of international vulnerability, a majority presence of communities whose norms are a mismatch with ICCPR Article 18 is correlated with lower levels of compliance. Even more so, it suggests that vulnerability to the international community actually decreases levels of compliance with the ICCPR articles on religious freedom. This stands in stark contrast to the role of international vulnerability when it comes to the CEDAW. This striking finding, and the way in which political dialogue as an explanatory model can help us understand it, is further explored in the qualitative chapters 4, 5 and 6.

Chapter 3 concludes by selecting the case study of Jordan, as based on the quantitative findings. Jordan is a highly suitable case study to further investigate the workings of the political dialogue model, because there is a considerable presence of communities whose norms are a mismatch with the CEDAW as well the ICCPR. In addition, both scope conditions of the theoretical model are present; Jordan is vulnerable to the international human rights community, and its compliance with the CEDAW and the ICCPR is strongly monitored.

Chapter 4 investigates the presence of the scope conditions that bring about the start of a political dialogue as well as the conditions that shape such a dialogue. It discusses Jordan during the first years of the reign of its current king, King Abdullah II, who ascended to the throne in 1999. It describes Jordan's vulnerability to the international human rights community, as well as the norm monitoring carried out by and demands for compliance made by the respective UN monitoring bodies and the US. It also describes the space Jordanian decision-makers had to create consensus, by discussing Jordan's vulnerability to the Arab-Islamic international community and several domestic communities, and the specificity of their respective norms.

The chapter then moves on to describe the changes in these conditions that occurred over time from the beginning of King Abdullah II's reign up to 2017. It finds that there are two focal points: first, the period after 9/11, the day of the attack on the US' Twin Towers, and second, the Arab Spring and its aftermath. The chapter concludes with further specified propositions as based on these findings, that are further investigated in the following Chapters 5 and 6.

The findings discussed in Chapter 5 on the CEDAW support the proposed political dialogue model, and demonstrate its usefulness for explaining decisions on compliance. It finds, first of all, that vulnerability to and norm monitoring by the international human rights community have triggered the start of several political dialogues in Jordan. Through the use of different consensus-creating strategies, Jordan's main decision-makers have succeeded in making a small increase in Jordan's level of compliance acceptable to most communities

involved. The chapter thus suggests that increasing levels of compliance is possible and can be made acceptable through political dialogues, even if communities whose norms are a mismatch with human rights have a large majority presence.

The chapter also discusses some unexpected but highly interesting findings. It describes when and how political dialogues can also lead to strong backlash effects. Especially in instances when the pressure to comply from key partners in the human rights community became very strong, Jordanian decision-makers overstepped other communities' red lines during the dialogue. In this way, the chapter demonstrates how the use of the consensus-creating strategies without sufficiently accounting for communities' norms can have the opposite effect: instead of creating consensus, they can cause strong backlash effects. The evidence in this chapter further suggests that these effects can even force state decision-makers to retract their decision, especially when they are very vulnerable to the mobilized communities.

Chapter 6 discusses ICCPR decision-making in Jordan, and sheds light on the similarities, but also the differences suggested by the quantitative analysis between the CEDAW and ICCPR. Also in the case of the ICCPR, Jordanian decision-makers responded to international vulnerability and monitoring by starting a political dialogue. However, the outcome of this dialogue was very different from the CEDAW. It safeguarded the existing religious freedom for some groups, while legitimizing repression of some other religious groups, and therefore in effect resulted in an overall decrease in compliance. However, also in contrast with the CEDAW, the dialogue on religious freedom did not generate a backlash effect, as some important communities' red lines were carefully respected.

Chapter 7 concludes the project and discusses the differences found between the use of dialogue between the CEDAW and the ICCPR. It highlights the importance of the scope conditions as well as path-shaping conditions during political dialogues. It also discusses some of the surprising findings of the empirical chapters, and uses them to further develop the political dialogue as a model to better understand states' decisions on compliance. This includes an expansion of the possible consensus-creating strategies that decision-makers can use. It also further theorizes the role of the backlash effects. Specifically, it proposes a further elaboration of the political dialogue model, by including the moments when a backlash effect can develop and the reasons why it might do so.

Finally, the chapter suggests avenues for future research, and gives policy recommendations for organizations working on political dialogue, human rights NGOs, as well as states aiming to implement or advocate for human rights.

Unraveling the patchwork: political dialogue as a theoretical model

2.1 Introduction

This chapter develops the political dialogue model to explain how state decision-makers decide on compliance. This model enables us to gain insight into how these decision-makers mediate between divergent normative pressures from international and domestic communities. It outlines how they can try to mediate between these pressures, attempt to reconcile them, and find or create consensus. It demonstrates how they can shape decision-making processes over human rights compliance in such a way that an outcome becomes possible that is acceptable to the parties at all levels involved – even if the parties' respective demands were very disparate at the beginning.[67] As such, the political dialogue model helps us understand why and how decision-makers deal with competing pressures to comply and violate. As a result, this theoretical model sheds light on why leaders choose certain articles to comply with, while others are ignored, violated, or implemented only up to a certain extent.

2.2 The logic of the political dialogue model

The model is built on current thinking on international norms, the cultural mismatch hypothesis, and norm contestation.[68] It follows the logic of the two-level game and adds to it insights on the influence of international and domestic norms on decision-makers.[69]

The logic of the two-level game is a useful starting point to bring together international and domestic level explanations of state compliance. On the one hand, international level explanations focus mostly on the domain of inter-state relations. On the other, domestic level explanations focus mostly on the domestic society, culture and political institutions of individual states.[70] The two-level game instead outlines the way in which domestic politics and international relations are interconnected and inseparable. It allows for the understanding that individual decision-makers are constrained and enabled by domestic and international communities at the same time. Moreover, it highlights how political dialogues and negotiations do not proceed in a linear fashion from one level to the next, but instead occur simultaneously. What happens at one level of the negotiation directly influences the other. This makes decision-making a process of strategic interaction in which state actors "simultaneously try to take account of, and influence, the expected reactions" of both

67 Putnam, 1988; Evans et al. 1993
68 Zimmerman, 2016
69 See for examples of the first: Putnam, 1988; Evans et al. 1993; Boyer, 2000; Schoppa, 1993, 1997; Feliu, 2003; Lantis, 2006; Li, 2005; Mo, 1995; Patterson, 1997; Shamir & Shikaki, 2005. See for examples of the latter: Acharya, 2004; Bob, 2012; Bloomfield & Scott, 2017; Cardenas, 2010; Checkel, 2005; Coleman, 1994; Cortell & Davis, 2000, 2005; Deitelhof & Zimmermann, 2013; Goodman & Jinks, 2013; Katzenstein, 1996; Risse & Sikkink, 2013; Simmons, 2009; Smith, 2013; Tannenwald, 2007; Thomas, 2001, 2005; Wiener, 2004, 2014; Zwingel, 2012; Zimmermann, 2014
70 Evans et al., 1993:5

domestic and international audiences.[71] What is more, individual decision-makers actively use strategies to make decisions possible that were previously considered impossible at one or both levels. Particularly when the demands and needs of different communities are a mismatch, a space of autonomy opens up in which state decision-makers can act to reconcile them. That space provides them with strategic opportunities, as well as strategic dilemmas.[72]

This understanding of state decision-makers as both constrained and enabled by two levels at the same time has proven useful for analysing international treaty ratification, including human rights treaties.[73] This project argues that compliance with human rights can also be best understood as a two-level dialogue, because decision-makers need to account for both international and domestic communities' demands and preferences. It is only when these match that decision-makers can make accepted and therefore effective changes to national legislation. In the case of human rights compliance, this means that any changes to national legislation need to be accepted by the international human rights community as a move towards compliance, and at the domestic level as – at the very least – a move not violating domestic norms. To use the classic metaphor of the two-level game; state decision-makers need to make that one good move on two very different chess boards.[74]

However, at each of these two levels, states can be part of more than just one community, each with their own norms.[75] At the international level, consider for instance the international community of Arab states, sharing Arab-Islamic norms, or the international community of democratic states, sharing democratic norms. [76] A state can be part of, and can identify with both of these international communities at the same time. When the norms of two international communities are considered a mismatch, it complicates decisions on compliance, as one and the same decision needs to be recognized simultaneously as a move towards human rights compliance, and as not breaching the norms of a second international community's norms.

But a state is part of a domestic society as well.[77] And just as there are different international communities, there can be different domestic communities as well, and all these communities also have their own specific norms.[78] This means that one decision on human rights needs be recognized not only by several international communities as – at the least – not violating their respective norms, but also by several domestic communities. Consequently, the classic two-level metaphor in which a decision-maker plays at two chess

71 Evans et al., 1993:15; Feliu, 2003:143
72 Feliu, 2003; Putnam, 1988:460
73 Lantis, 2006; Martin & Sikkink, 1993; Feliu, 2003
74 Putnam, 1988
75 Thomas, 2001:14
76 Philips, 2012; Barnett, 1998
77 Thomas, 2001:14
78 Coleman, 1990; Ellickson, 1992; Knight, 1992; North, 1990; Ostrom, 2000

boards simultaneously is further complicated; it is about making that one good move at four, or more, international and domestic chess boards.

When all these different norms match, extensive compliance with international human rights norms does not need to be a very difficult decision from a normative perspective. It is likely that the human rights norms will be recognized as matching the norms of all different communities. In such cases, and all other things being equal, we would expect higher levels of compliance. The difficulty of extensive compliance arises when norms are considered a mismatch, because it is not likely that decisions to increase compliance with contested human rights will be accepted by the other communities. If this is indeed the case, we should expect to see that the presence of such communities is related to lower levels of compliance in practice. This leads to the first proposition of this project:

> Proposition 1 (Quantitative): The larger the presence of communities adhering to norms that are a mismatch with human rights, the lower the level of compliance.

2.3 Key actors

The central actors in the political dialogue model are those who have the final say over compliance with human rights treaties, called state decision-makers. Depending on the political system these can be a government, a president, a monarch, and so on. These actors have a key position in the dialogue, because they are in the position of dealing with interactions from all different international and domestic communities and make the decisions on domestic legislation, and thus compliance.[79] By focusing on state decision-makers, the theoretical model enables analysis of other state-related institutions, particularly parliament and political parties, as voices representing domestic communities.

The model works on the assumption that decision-makers, in principle, aim to make a decision that is acceptable to the domestic and international constituents they are most vulnerable to, because they want to maintain their position of power.[80] Therefore, decision-makers are interested in finding or creating consensus before deciding on compliance. This will then prevent negative sanctions such as naming-and-shaming by the international community or by leading states within that community.[81] In addition, communities' norms also shape decision-makers' own identities and belief systems through internalization. When internalized, norms shape decision-maker's policy preferences.[82] In this way, a state

79 Mastanduno et al., 1989
80 Mastanduno et al., 1989
81 The space of acceptability is a direct adaption of Putnam's win-sets. See Putnam 1988, Evans et al., 1993.
82 Checkel, 1997; Risse, 2009; Klotz, 1996:9; March & Olson, 1987; Turner, 1991:5; Coleman, 1990:293; Hooghe, 2005:865; Greenhill, 2010; Hawkins, 2004; Goodman & Jinks, 2013:3; Checkel, 2005; Kratochwil, 1989

decision-maker might want to comply with certain norms, even when it is difficult to do so.[83] However, when state decision-makers have internalized certain norms, it does not mean they can freely pursue the implementation of those norms, as they are still part of different communities.

Different communities can try to influence decision-makers' choices by creating deterrents and incentives.[84] When norms mismatch, one community might provide incentives to make a certain decision, while the other community is simultaneously expected to sanction or punish the state leader for that same decision. In addition, the knowledge state decision-makers have of the different communities' norms, and the expectation they have of the communities' sanctions, already work as a constraint or incentive in their decision-making process. This knowledge can even make certain options 'unthinkable', for instance, when a norm is as strong as a taboo.[85] This highlights another assumption of the political dialogue as a theoretical model: that different international and domestic communities prefer the decision-maker to protect or implement their respective norms, or as a minimum, not to violate them.

Communities can participate in a dialogue process, for example through their formal representatives in parliament or in political committees, or through informal representatives or leaders who are invited to the dialogue.[86] They can also exert outside pressure to start or influence a political dialogue as norm entrepreneurs. Entrepreneurs can be part of the international human rights community and encourage compliance from non-compliant decision-makers. [87] Their strategies to induce change include persuasion,[88] naming and shaming,[89] translation and vernacularization.[90]

In contrast with such human rights norm entrepreneurs, other types of norm entrepreneurs can advocate the normative status quo over normative change, and demand protection of the norms that human rights entrepreneurs are trying to change.[91] They can work from the domestic level, but they can also be part of a second international community.[92] Like human rights entrepreneurs, they can be part of civil society, international organizations, or religious movements. They can use some of the human rights entrepreneurs' strategies,

83 Coleman, 1993; Cooter, 2000:17
84 Checkel, 1997; Cortell & Davis, 1996; Moravcsik, 1995; March & Olsen, 1987:23
85 Tannenwald, 2007.
86 See for instance Lupu, 2015. Even though Yonatan Lupu generally regards legislative veto players, such as the legislative opposition, as supportive of human rights treaties, I expect they can also exert their legislative power to obstruct compliance with human rights when they support mismatching norms.
87 Finnemore & Sikkink, 1998
88 Goodman & Jinks, 2013; Hawkins, 2004.
89 DeMeritt, 2012; Lebovic & Voeten, 2006; 2009; Murdie & Davis, 2012; Murdie & Peksen, 2014; Peterson et al., 2016; Terman & Voeten, 2017.
90 Zwingel, 2012, Merry, 2009.
91 Bloomfield & Scott, 2017:230
92 Importantly, they are from a different community to the entrepreneurs (Acharya, 2017). This makes them a different type of actor to those who try to challenge norms from within, which is often the type of actor investigated in the literature on norm collision (e.g. Wiener, 2008; 2017)

such as persuasion and naming and shaming of state decision-makers.[93] But because they defend the normative status quo, they also have some tools that are available uniquely to them. For instance, they can try to delay or frustrate attempts at a political dialogue.[94] They can play on the 'fears of the unknown' of what would happen if trusted norms changed, and in this way mobilize an otherwise passive community. On the whole, such entrepreneurs enjoy an inherent advantage, simply because their aim is often to stop change.[95]

2.4 Starting a dialogue

Decision-makers are likely to start a political dialogue when they want or see the need to comply with international human rights norms. This is dependent on two conditions.

Norm monitoring

The first condition that determines whether or not state decision-makers see the need to move towards compliance is how often and how extensively a state is evaluated by other members in the community on its compliance record. When a human rights norm is closely monitored, non-compliance is likely to be noticed by other members of the community. Consequently, states cannot easily maintain the status quo without being sanctioned for violation through, for example, naming and shaming by human rights norm entrepreneurs or other members from within the community.[96] Evidence suggests that states are especially keen to avoid naming-and-shaming by key allies or states that are leading members of an international community.[97] A human rights norm is considered to be closely monitored when the monitoring process is institutionalized by the respective UN Committees and other human rights bodies such as the Human Rights Council, takes place at regular intervals, and when the norm is actively reinforced through additional declarations and resolutions. And, finally, when other members of the international community – such as NGOs and individual (powerful) states – actively track compliance with the human rights norms. This concept of norm monitoring, and the other following central concepts, will be further operationalized in the empirical chapters.

Vulnerability

Motivations to comply with international human rights norms are also strongly dependent on how vulnerable a state is to the community advocating those norms. It matters whether strong states, such as China or the USA, or economically weaker states, such

93 Adachi, in Bloomfield & Scott, 2017; Bob, in Bloomfield & Scott, 2017
94 Adachi, in Bloomfield & Scott, 2017; Bloomfield, in Bloomfield & Scott, 2017; Clapton in Bloomfield & Scott, 2017; Zahava in Bloomfield & Scott, 2017
95 Bloomfield & Scott, 2017; 241
96 Ellickson, 1991:124; Hafner-Burton, 2008; Lebovic & Voeten, 2006; Murdie & Peksen, 2014; Lebovic & Voeten, 2009; Barry et al., 2013
97 Terman & Voeten, 2017

as the Philippines or Guatemala, are pushed to comply.[98] Economically strong states can resist or fight off external pressures easier than weaker states.[99] Rich and strong states are better able to bear the potential costs of non-compliance and their ability to survive is comparatively independent compared to that of weak and poor states. They will therefore be less vulnerable to demands to comply with community norms.[100] In addition, strong states that can draw on soft power and social legitimacy from established counter-frames can also more easily fight off pressures to comply. The Asian values debate, for example, demonstrates that states such as China command considerable legitimacy within the Asian international community, and are able to establish a successful counter-discourse against pressures to comply with human rights.[101]

On the other hand, small and poor countries with an interest in belonging to the international human rights community and a dependency on trade and aid flows are much more vulnerable to demands to comply.[102] Such states are more likely to want to avoid pressures or sanctions, and are more likely to need the positive rewards that can come with compliance. When states are vulnerable, pressures to comply are effective because decision-makers need to avoid costly sanctions or to reap the benefits of compliance. Especially weaker states with little social legitimacy within international communities are vulnerable to pressures to comply. For such states, the application of social pressure to comply is effective, because actors care about their standing in the community and need to be recognized as a member of that community.[103] They need to be seen as a complying state, as their reputation and the social status within the human rights community depends on their respect for the community's norms.[104]

Necessary and sufficient conditions

Both scope conditions, human rights monitoring and vulnerability, are necessary for state decision-makers to start a political dialogue. Individually, these conditions are not sufficient. For instance, if a human rights norm is monitored extensively, but the decision-maker is not vulnerable to the human rights community, it is unlikely she will see the need to respond to pressures to comply. However, the two scope conditions together are necessary and sufficient for a state decision-maker to initiate the dialogue. If a human rights norm is monitored extensively, and the decision-maker is vulnerable to the human rights community, it will become too difficult to maintain the status quo.

If norm monitoring and vulnerability indeed have this role, we can expect that the relation

98 Risse & Sikkink, 2013:20
99 Risse & Sikkink, 2013:20
100 Risse & Sikkink, 2013:20
101 Brems, 2004; Greenhill, 2010; Risse & Sikkink, 2013:21
102 Risse & Sikkink, 2013; Zimmerman, 2016:101
103 Risse & Sikkink, 2013:21
104 Hirschmann, 2019; Risse & Sikkink, 2013

between mismatching norms and compliance with closely monitored human rights is mediated by vulnerability. That takes us to the second proposition of this project:

> Proposition 2 (Quantitative): The relation between mismatching norms and compliance with closely monitored human rights is mediated by international vulnerability; when a state is vulnerable to the international human rights community, the relation between mismatching norms and compliance with strongly monitored norms is weaker, as compared to states that are less vulnerable.

Testing the first two quantitative propositions allows us to investigate the relation between the presence of normatively mismatching communities, compliance with closely monitored human rights, and international vulnerability. However, these quantitative tests do not provide evidence that these conditions actually lead to a political dialogue, as also other mechanisms could play a role. Therefore, a third qualitative proposition is needed:

> Proposition 3 (Qualitative): When decision-makers are vulnerable to the human rights community and the human rights norms are closely monitored, they start a political dialogue to make a decision on compliance possible.

2.5 Space to create consensus

State decision-makers are likely to initiate a political dialogue under the scope conditions of monitoring and vulnerability. Yet, once that dialogue is initiated, the space that they have to create consensus can vary widely depending on the point in time and country in question. This space is influenced by two path-shaping conditions: firstly, how vulnerable decision-makers are to communities other than the human rights community, and secondly, how specific those communities' norms are.

Vulnerability to other communities

Generally speaking, the more vulnerable decision-makers are to other communities adhering to norms that are considered a mismatch with human rights, the less space they have in the dialogue to create consensus and push in favor of achieving a higher level of compliance.[105] Such communities can exist at both international and domestic levels. Vulnerability to domestic communities works slightly differently than international vulnerability, due to the nature of the relation between state decision-makers and the communities they govern. In many contexts, domestic communities usually have at least some political leverage over governments, because the latter want to stay in office by making and implementing

105 Putnam, 1988:449

laws that are supported. Yet these domestic structures and therefore decision-makers' vulnerability vary significantly across the world.[106]

At the high end of this scale of domestic vulnerability we find the type of political systems in which domestic individuals and groups are accorded a central role in political-decision-making. In such bottom-up systems, it is often societal pressure that leads to changes in policies and legislation. It is therefore crucial for political decision-makers to be perceived as responsive to communities' demands. Decision-making is politicized, and the range of actors that can try to influence the process is broad.[107] Moreover, decision-makers can be punished relatively easily for creating policies or laws that are not in line with communities' norms and demands by way of, for example, loosing support in democratic referenda or elections.[108]

At the low level of vulnerability, there are political systems in which state decision-makers sit completely apart from, and exercise a significant level of control over, society.[109] In such top-down systems, decision-making is centralized and not politicized. The range of actors that can influence that process is very limited, or even non-existent. Decision-makers cannot be ousted from power when they make laws or policies that are not in line with domestic communities' demands.

High vulnerability is institutionalized in democratic systems, and in comparison, it is lower in non-democratic regimes. However, state decision-makers of non-democratic governments can also be vulnerable to specific domestic communities or their representatives, in particular when those communities have veto power over political decisions, or have the power to mobilize large segments of the population in protests.[110] Consider, for example, those non-democratic regimes that experience social unrest and protests that threaten the position of a decision-maker, making them vulnerable and under pressure to take domestic communities' demands into account.[111]

Norm specificity

Alongside vulnerabilities to other communities, the specificity of these communities' norms also has an influence on the space state decision-makers have to create consensus on compliance.[112] Norm specificity is about how well a norm is defined and understood by the members of the community, and thus how unambiguously said community defines the conduct or behavior it requires, authorizes, or proscribes.[113]

106 Checkel, 1999; Dai, 2005:364
107 Checkel, 1999:89
108 Checkel, 1999; Putnam, 1988:448
109 Checkel, 1999:89
110 Cardenas, 2007: 12; De Mesquita et al, 2005; Mo, 1995; Lupu, 2015
111 Gurowitz, 1999; Risse & Sikkink, 2013
112 Putnam, 1988:445; Legro, 1998
113 Cristhof, 2014; Abbott et al. 2000

Norm specificity influences the space decision-makers have to create consensus, because norms can be redefined, reinterpreted, traded off, and changed in the course of a dialogue.[114] Norms that are not highly specified leave an interpretative scope that can be used to debate, contend and re-interpret them.[115] Consequently, such norms grant decision-makers space to find or build consensus in a dialogue. On the other hand, norms that are highly specified clearly outline the limits of the desired behavior. As such, only limited discussion or reinterpretation is possible. Therefore, such norms limit the possibilities of finding consensus when there is a mismatch.

An indicator of a norm's specificity is whether the boundaries of the norms are very clear to the members of a community, or whether they are subject to arguments and debate.[116] At the lowest levels of norm specificity, members of a community are not in agreement at all regarding where the boundaries of violation of the norm lie. Discussion about the correct interpretation of the norm is common. [117] At the highest levels, we find highly specified norms. For such norms, it is clear to the members of a community which types of behavior are compliant and which a violation of the norm. There is no, or only very limited discussion possible on where those boundaries are, and violation is sure to be sanctioned by community members.[118] In the case of a taboo, it is even unthinkable for community members to open up a discussion about the norm, let alone take a decision that violates it.[119] Together, vulnerability to other communities and norm specificity determine state decision-makers' space to create consensus on compliance in political dialogues.

2.6 Consensus-creating strategies

Within the space that is shaped by vulnerabilities to other communities and their respective norms, state decision-makers can use different strategies to create consensus. These strategies help to identify or create agreement, or consensus, that will allow decision-makers to make a decision on compliance that is acceptable to the different communities. These strategies, and how they are affected by the path-shaping conditions of vulnerability and norm specificity, are discussed below.[120]

Participant selection

The outcome of any political dialogue depends, crucially, on which actors are motivated

114 Fraser, 2019:982; Kratochwil, 1989: 10
115 Fraser, 2019:982
116 Legro, 1997; Cristhof, 2014
117 Abbott et al. 2000; Legro, 1997
118 Legro, 1998:34
119 Tannenwald, 2007
120 These are based on insights from the two-level game and expanded and further refined by constructivist insights on the influence of norms: see, for example, Hawkins, 2004; Putnam, 1998; Evans et al., 1993

and allowed to participate.[121] Therefore, decision-makers that seek to increase compliance with international human rights norms can benefit from carefully selecting the actors that take part in the process. For example, they can select actors from communities that they expect are, in principle, willing to consider reform, instead of selecting the hardliners or 'hawks' of that community.[122]

In addition to selecting 'doves' over 'hawks', state decision-makers can also increase the number of possible outcomes by expanding the number of participants. For example, by including more bureaucratic agencies, senior party leadership, interest groups, and activating a previously uninformed and uninterested audience, via methods such as media attention.[123] However, especially when there is a normative mismatch that involves a taboo-like norm, a lot of domestic interest and media attention seems more likely to decrease the number of potential outcomes. It is likely to further complicate a decision-maker's attempts to create consensus, and thus makes it harder to make a decision that is in line with a human rights norm. It will likely be easier if the dialogue takes place within a small group who are, in principle, willing to seek consensus.

In addition, the options for decision-makers to use participant selection as a strategy much depends on their vulnerability to domestic communities. For example, in a fully authoritarian regime with limited presence of veto communities, decision-makers can choose if and who gets a voice, as well as where and when, for instance by allowing only representatives of certain communities access to the decision-making process, or by limiting freedom of expression on certain topics but not others. In its most extreme form, participant selection can thus result in repression of communities or their representatives. Conversely, in a state where there is a strong presence of veto communities or in a fully democratic state, it will be much harder for decision-makers to control and select who participates in the decision-making process. State leaders who are very vulnerable to other communities are more restricted in selecting the participants of a dialogue, but can still use that restriction strategically. It creates a so-called tied-hands effect, and could make an insufficient increase in compliance more acceptable to the human rights community as it appears to be beyond the decision-makers' control.[124]

Topic selection

After the participants are selected, one way to create consensus is to select the topics that are discussed by the participants and set a carefully designed agenda. This strategy is most strongly affected by the norms' specificity. The knowledge a state decision-maker has of the different communities' norms in part determines which topics can be discussed in the

121 Schoppa, 1993:371
122 Putnam, 1988
123 Schoppa, 1993:371
124 Evans et al, 1993.

political dialogue. Knowledge of those norms can make certain options 'unthinkable' to be opened up for discussion, particularly when those norms are highly specified or include taboos.[125] When decision-makers want to move to compliance, they will therefore discard the topics on which they expect consensus will never be possible. At the same time, they might identify topics on which they expect a consensus might be created through the use of other strategies such as persuasion and side payments or trading.

In addition, decision-makers' vulnerability also determines the extent to which topic selection can be used in favor of compliance. Especially when veto communities that have highly specified norms are involved, it becomes much harder to push for an increase in compliance, as it is possible that many topics constitute red lines and are therefore off the table.

Persuasion

State decision-makers can persuade participants in a dialogue to accept options they initially might have considered undesirable. Through persuasion, participants weigh a particular message or argument, and become convinced to change their mind on the subject. In this way, participants can be convinced of the appropriateness of a new norm, and accept its truth or validity.[126]

On the one hand, persuasion can be a powerful tool, as successful arguments can change the most fundamental beliefs.[127] Finding consensus then becomes much easier, as, at least for the participants in the dialogue, there is no longer a mismatch between the norms under discussion. On the other hand, the power of persuasion is often bound by the specificity of existing norms. These norms provide the frame in which new arguments and attempts on persuasion are given meaning.[128] Consequently, an individual might only become convinced of the validity of the argument if she has not previously internalized highly specified or taboo-like norms that are a mismatch with human rights.[129]

In addition, the opportunity to use persuasion as an effective strategy to create consensus is also likely to be shaped by the degree to which the state decision-makers are vulnerable to the communities involved. Persuasion is most likely to occur in a dialogue when there is relative equality among the participants. When there is no such equality, because some communities' representatives have a stronger say in the dialogue than others or have a higher position of authority, it is less likely for the participants to be able to persuade, or be persuaded, about new ideas and norms. [130]

125 Tannenwald, 2007
126 Goodman & Jinks, 2013:24; Kratochwil, 1989
127 Checkel, 2005:26
128 Kratochwil, 1989:10
129 Coleman 1993; Hooghe 2005
130 Hawkins, 2004:785

Reverberation

A strategy similar to persuasion is reverberation.[131] Whereas, however, persuasion is directed at the individuals participating in the dialogue, reverberation means convincing their community of the international human rights norm. Through reverberation, communities' perception of the norm that is discussed can be altered. By persuading those communities of the norm's legitimacy or value, decision-makers' space to create consensus is increased as more options become acceptable. State decision-makers can try to persuade communities to accept an international norm by starting up advocacy campaigns or setting up broad social reform programs.[132] But as well as to deploying these tactics themselves, state decision-makers can also choose to allow their international partners to persuade domestic communities. They can allow other countries, for instance, to give funding to domestic human rights entrepreneurs, to 'woo' opinion leaders or to support political parties in favor of their plans, or they can block funding to norm entrepreneurs from countries whose influence they want to limit. [133]

Reverberation occurs from the international level to the domestic level. Consequently, the effect is determined by whether communities have already internalized many highly specified mismatching norms. It is much harder to change communities' minds on taboo-like norms as compared to a loosely specified norm that is a mismatch with human rights. In addition, options for reverberation are affected by decision-makers' domestic vulnerability. The more authoritarian a state is, the more options state leaders have to deploy reverberation tactics. In a fully authoritarian regime with few veto communities, decision-makers can instigate social reform programs, control the information their society receives through media censorship, determine which entrepreneurs are funded by international communities and which are not, and even prohibit the formation of groups that may wish to mobilize against their plans. Conversely, in a fully democratic state, it will be much harder for decision-makers to control reverberation attempts.

Side payments and trading

Finally, state decision-makers can use side payments during the dialogue process to forge consensus. A decision-maker can tempt participants to accept certain options by offering something valuable in return. The use of side payments or tit-for-tat trading does not reconcile any mismatching norms in the short term. Rather, a trade is made between giving up something that is considered valuable – precisely because communities prefer a mismatching norm – and getting something else in return for it. Therefore, this type of trade is made in full recognition of the normative mismatch.

The use of side payments is affected by both a leader's vulnerability and the specificity of

131 Putnam, 1988; Schoppa 1993
132 Moravcsik, 1993:24
133 Putnam, 1988:454; Schoppa 1993; Moravcsik, 1993:29

the other norm. As side payments are relatively costly compared with other strategies such as persuasion, they are most likely to be made only when they are absolutely necessary. That is to say, when certain communities' approval is pivotal to making a decision on compliance possible. That means we can expect side payments to be made by vulnerable decision-makers to communities with veto power.[134]

A norm's specificity affects this strategy as well, as the more specified a norm is, the costlier it becomes for a participant to break with it and accept normative change. Consequently, it is likely that side payments are more often used when discussing less specified norms, and not for highly specified taboo-like norms.

Table 1 below summarizes these different types of strategies, and their relationship to decision-makers' vulnerability to other communities and their norms' specificity.

Table 1: Space to create consensus with available strategies

		Vulnerability to other communities	
		Low	High
Norm specificity	Low	(A) Considerable space to use different strategies to create consensus on compliance. Possible strategies include: -Participant selection -Topic selection -Persuasion -Reverberation -Side payments	(B) Moderate space to use different strategies to create consensus on compliance. Possible strategies include: -Topic selection -Reverberation -Side payments
	High	(C) Moderate space to use different strategies to create consensus on compliance. Possible strategy: -Participant selection	(D) Very limited space to use different strategies to create consensus on compliance. No possible strategies expected.

The possibility to move towards compliance with the help of these strategies as determined by vulnerability and norm specificity is summed up in the following proposition:

> Proposition 4 (Qualitative): In cases where the related communities' norms are not specified, decision-makers whose vulnerability to other communities is low have considerable space to use different strategies to find or create consensus when the communities' norms and human rights are a mismatch. Decision-makers who are very vulnerable to other communities whose norms are highly specified have very limited space to use different strategies to find or create consensus.

134 Lupu 2015

2.7 Patchwork compliance

The use of – or restrictions to using – these strategies eventually results in patchwork compliance. State decision-makers can make a whole range of different choices beyond simply deciding whether or not to comply. Each treaty contains many different topics and articles with which states can comply in different gradations. Discussing these different choices on compliance in political dialogues results in widely varying patchworks of compliance; states implement some articles but ignore others, comply with a range of articles extensively, comply only up to certain extent to some, and openly violate others.[135] The strategies used and trade-offs made in political dialogues might make human rights compliance acceptable to the different communities involved, but it also makes full compliance highly unlikely to occur.[136]

To clarify that compliance in fact contains many different choices, it helps to understand it as a two-dimensional concept. These two dimensions, range and degree, are shown in the figure below.

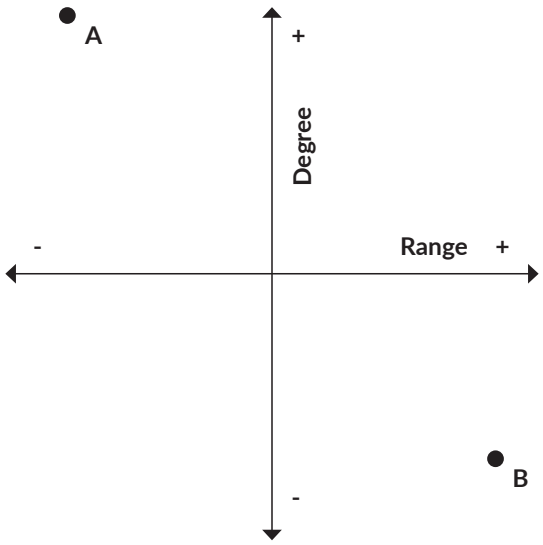

Figure 1: Range and degree of compliance

The range of compliance refers to the number of the articles and sub-articles of a human rights treaty that a state has implemented as law in national legislation. The second dimension, the degree of compliance, relates to the measures taken to ensure effectiveness

135 Cardenas, 2007; Fraser, 2019; Hawkins & Jacoby, 2010; Hillebrecht, 2014:1108; Zimmerman, 2017
136 Fraser, 2019:982

of one specific (sub-)article in practice. Judging what is an increase in degree and range of compliance is often different for each treaty, but there are some choices that are similar across treaties. Actions such as ratifying a treaty and lifting reservations can be considered as an increase in the range of compliance. Any action or new policy that effectively ensures individuals can make better use of their rights constitutes an increase in the degree of compliance.

For example, in Figure 1, State A is depicted as having a very low range of compliance along the horizontal axis. This could mean, for instance, that this state has implemented Article 7 of the CEDAW (women's right to participate in politics) in national legislation, but did not implement many of the other CEDAW articles. However, State A does have a large degree of compliance on the vertical axis. That means it might have only implemented a law on women's political participation, but has done so to a large degree – for instance by adopting a quota of 40% for women in its national parliament. State B, on the other hand, is depicted as having a very high range of compliance. This could mean, for instance, that it has implemented many articles of the treaty in domestic legislation, and has placed few or no reservations. However, State B also has a very low degree of compliance. That means, for instance, that this country's women have a lot of rights on paper, but that the state has done nothing to make sure women can also enjoy all these rights. State B would have, for instance, a law granting women the right to political participation, but have few or no women in parliament and no measures in place to increase their numbers.

Understanding compliance as a two-dimensional concept, including both range and degree, makes it possible to move beyond simplified dichotomous classifications of compliance versus violation. This paints a more accurate picture of the patchworks of compliance we see in practice. Also, it allows for building a better theory on compliance, and for investigating how state decision-makers choose to comply with some articles fully, up to a certain extent with others, and violate other parts at the same time. This brings us to the final proposition of this project:

> Proposition 5 (Qualitative): Through political dialogues, decision-makers make an increase in the range or degree of compliance possible and acceptable despite initially mismatching norms. The more space they have to use different strategies, the higher the increase in range or degree of compliance.

2.8 Conclusion

Table 2 on the next page summarizes the pathway of the political dialogue, as discussed in this chapter. This pathway should be read as an iterative circle. Compliance is an ongoing process that starts from the moment of ratification. That means the pathway can be gone through many times, and the results of one dialogue are likely to feed into the next iteration. In addition, it is not a linear pathway. Dialogues can break down, or need to go back to previous steps, before – if at all – state decision-makers succeed in creating consensus and increasing compliance.

The scope conditions that trigger the dialogue are displayed in the bottom left-hand corner. When a state is vulnerable to the international community advocating human rights norms and those norms are closely monitored, state decision-makers need to move towards compliance to gain needed benefits, avoid sanctioning or secure the state's place as a member of the community. Yet, the presence of normatively mismatching communities (cause) requires a dialogue to create consensus first, so as to avoid similar sanctions from these communities. The space that leaders have to create or identify consensus in such a dialogue is shaped by their vulnerability to other communities, and the specificity of the respective communities' norms. These path-shaping conditions are displayed in the center bottom box.

Part 1 outlines the initiation of the dialogue. Once that has happened, decision-makers can start to seek or create consensus, for instance by way of persuasion or side payments (Part 2). If decision-makers succeed in identifying or creating less contested options, (Part 3), they can then make the decision to move towards compliance. Such a decision will be accepted by the communities involved, but – or therefore – will not be in full compliance with international human rights norms. Rather, it will result in a kind of patchwork compliance, by increasing the range or degree of compliance (outcome). This political dialogue enables state leaders to make a decision on compliance without causing strong resistance against international human rights norms, to gain benefits, or to avoid sanctioning. Yet, it will not result in a perfect compliance record.

The pathway for the political dialogue as presented in this chapter is meant as a theoretical model. By definition, such a pathway is a simplification of often complex and dynamic realities. It does not capture all of the complex realities out there, and it is therefore necessary to demarcate the universe of cases this model speaks to. This particular universe is limited by the cause and the two scope conditions of the pathway. First of all, the political dialogue model describes only those processes that are potentially ongoing in states that are part of international communities and/or govern domestic communities that adhere to

Table 2: Pathway of the political dialogue

	Cause	**Part 1**	**Part 2**	**Part 3**	**Outcome**
Theory	Presence of normative mismatch	Decision-makers start political dialogue	Decision-makers identify options for/create consensus	Decision-makers succeed in creating consensus	Patchwork compliance: decision-makers move towards limited increase in range or degree of compliance
Operationalization	Presence of communities adhering to norms that lead to opposing behavioral outcomes as compared to human rights norms.	Decision-makers call for a committee to discuss legislative or policy reform	Decision-makers use consensus-creating strategies: -participant selection -topic selection -persuasion -reverberation -side payments	Participants accept options previously not known or considered unacceptable.	Decision-makers implement new legislation or policies in line with the human rights treaty.
	Scope conditions		**Path-shaping conditions**		
	(i) Vulnerability to international human rights community (ii) Human rights monitoring		(i) Vulnerability to communities adhering to norms that are a mismatch with human rights (ii) Other communities' norm specificity		

norms that mismatch with human rights. It is therefore not applicable to countries without such connections. The second characteristic that defines the universe of cases to which this model speaks are states that have ratified closely-monitored human rights treaties. If states are connected to communities that adhere to norms that mismatch with human rights, but they have not ratified the latter, this model cannot be used to understand the decision this state makes regarding human rights. Finally, the third characteristic is vulnerability to the international human rights community. This is to say that political dialogue as a model can only apply to states that are vulnerable to this community. It cannot be used to understand the compliance record of other states.

Probing the pathway in practice

The proposed pathway with related propositions presented in this chapter will be further explored in the following empirical chapters. The relation between the cause, outcome and scope conditions is first investigated in a quantitative analysis in Chapter 3. If the presence of a normative mismatch indeed leads to lower levels of compliance, that relation should first be visible in a quantitative study.

Testing these two propositions allows us to investigate the relation between the cause and outcome of the mechanism proposed in this chapter. However, these tests do not provide evidence for the pathway in between. Therefore, the separate steps of the dialogue are investigated in two qualitative case studies on the CEDAW and the ICCPR in Jordan. Chapter 4 discusses, first, the presence of the scope and path-shaping conditions for this case study. Chapter 5 and 6 then further test the propositions for the respective treaties.

The relation between mismatching norms and patchwork compliance

3.1 Introduction

This chapter is a first empirical plausibility probe of the political dialogue model. It explores the relation between the theorized cause, outcome and scope conditions of the model. It focuses on the presence of communities adhering to norms that mismatch with human rights, compliance with strongly monitored human rights, and states' international vulnerability. It uses a quantitative analysis to test the first two propositions of this project.

The analysis in this chapter finds support for Proposition 1: that the greater the presence of communities with norms that mismatch human rights, the lower the levels of compliance with the CEDAW and the ICCPR. For Proposition 2, it suggests different outcomes for each treaty. In the case of the CEDAW, the evidence suggests that dependency on international aid from the EU or the US mediates the relation between normative mismatches and compliance. States with communities that adhere to norms that mismatch with human rights, and which are dependent on aid, are expected to have higher levels of compliance as compared to states with similar communities, but which do not receive aid. For the ICCPR, the analysis suggests a different role for the scope condition of vulnerability. Not only does it not find such a mediating role for aid dependency, it indicates that this dependency is in fact related to lower levels of compliance. The chapter concludes with the selection of Jordan as the case study based on the quantitative findings.

3.2 Operationalization of main concepts

This paragraph discusses the quantitative operationalizations of the main concepts; the presence of normative mismatches (cause), levels of compliance with closely-monitored human rights (outcome), and international vulnerability (scope condition).

This chapter uses questions from the World Values Survey (WVS) as proxy variables to measure the presence of communities that adhere to norms that are a mismatch with human rights. This is a survey with a very wide global reach, and is also used by other scholars, such as sociologists, to approximate norms.[137] Mismatches with CEDAW's Article 7 on political participation are approximated by the question "On the whole, men make better political leaders than women do". A high score on this variable means that a high percentage of the population believes men are better political leaders, and is therefore a proxy for the presence of communities that adhere to norms that are a mismatch with Article 7. For example, in Egypt, 90% of the population believes men make better political leaders than women do.

Normative mismatches with ICCPR's Article 18 on the freedom of religion are measured by the proxy question "How much do you trust people with another religion?". All the

137 See, for example, Stavrova et al. 2013; Williamson & Kerekes, 2011. Other individual-level surveys are also used to measure norms - see, for example, Oyamot et al., 2016; Bratton, 2007

individual answers that indicated "Do not trust" and "Do not trust at all" were taken together, and then aggregated into percentages on the national level. Higher scores on this variable therefore indicate how widely shared the individual attitudes are, and are thus a proxy for the presence of communities with norms that are a mismatch with ICCPR Article 18. For example, Yemen has a score of 88, which means that 88% of the Yemeni population does not trust people with another religion. This question is used as a proxy, as trust in other groups in society is often interconnected with the norms related to those groups. For instance, Will M. Gervais et al. demonstrate how individuals' distrust of atheists is closely related to negative attitudes towards atheists.[138] The countries and presence of communities that adhere to norms that mismatch with ICCPR Article 18 and CEDAW Article 7 are displayed in Table 3 below.[139]

Table 3: Countries in the WVS sample.

	Percentage of the population that:				
Country	Does not trust people with a different religion.	Believes men are better political leaders than women.			
Algeria	85	75	Libya	79	77
Argentina	40	30	Malaysia	N.R.*	69
Armenia	84	66	Mali	32	79
Australia	30	23	Mexico	70	25
Azerbaijan	66	70	Moldova	74	52
Bahrain	51	72	Morocco	77	64
Belarus	59	66	Netherlands	54	14
Brazil	45	31	New Zealand	16	17
Bulgaria	55	48	Nigeria	54	77
Burkina Faso	45	63	Norway	20	15
Canada	20	18	Pakistan	72	74
Chile	58	39	Peru	79	19
China	N.R.*	52	Philippines	66	56
Colombia	66	29	Poland	46	40
Cyprus	72	35	Qatar	N.R.*	86
Ecuador	65	27	Romania	73	51
Egypt	61	90	Russia	60	61
Estonia	55	51	Rwanda	47	49
Ethiopia	60	23	Singapore	N.R.*	46
Finland	23	19	Slovenia	73	27
France	22	21	South Africa	40	52
Georgia	60	64	South Korea	59	52
Germany	51	20	Spain	51	18
Ghana	51	80	Sweden	15	10
Guatemala	N.D.**	32	Switzerland	29	16
Hungary	30	40	Thailand	75	53
India	47	63	Trinidad and Tobago	37	26
Indonesia	60	61	Tunisia	89	76
Iran	N.D.**	N.R.*	Turkey	67	66
Iraq	66	87	Ukraine	57	53
Italy	59	19	United States	27	N.R*.
Japan	84	43	Uruguay	48	15
Jordan	64	81	Uzbekistan	80	77
Kazakhstan	54	64	Vietnam	72	57
Kuwait	59	79	Yemen	88	86
Kyrgyzstan	76	64	Zambia	61	50
Lebanon	50	59	Zimbabwe	63	58

*N=74, *N.R. = not ratified corresponding treaty, **N.D.= no data available on norms. Non-ratifying states and those with missing values are deleted from subsequent analysis.*

138 Gervais et al. 2011
139 Both questions are measured in WVS wave 5 and 6

Measuring norms is difficult because of their shared nature, and the WVS proxies do not solve this issue.[140] The WVS collects individual-level data only, and it does not explicitly test the validity of that individual belief with all other members of the community to see whether it is indeed a shared norm.[141] Individual beliefs as measured in the survey might not be similar to a community's shared rules. An individual can live according to the shared norms of her society without accepting or internalizing them at the individual level.[142] This would mean, for instance, that a respondent to a survey is part of a community in which the shared norm is that children should contribute to the household income. At the same time, she can express in the survey that she individually believes that only parents should be responsible for the family's income.

This being said, there are several important arguments in favor of choosing the individual-level survey. First, even though norms transcend the single individual, any shared rule cannot be understood without its individual basis. If we are looking for norms, we must eventually find evidence of their existence in the beliefs or attitudes of individuals. If they are not found at the individual level, they cannot exist at the level of the community.[143] It is possible but highly unlikely that there is a shared norm prescribing that children should contribute to the household income, when there is no-one in that community who individually believes that this is how it should be. Moreover, community norms are often internalized in the long run, and should therefore be reflected in individual-level beliefs as well.[144] Thereby, in this chapter, the individual-level data is aggregated to the country-level, resulting in a percentage score for each country that indicates how widely shared individual-level beliefs are. Finally, these proxies are still better indicators as compared to the ones that are currently used in human rights literature to measure normative mismatches or 'cultures'.[145] In particular, the top-down classifications sometimes used by one scholar at one point in time do not account for the changing nature of norms, ignore communities' own opinions and description of their norms, and disregard both differences within 'civilizations' and similarities between 'civilizations'.[146]

Compared to such variables, the data used in this project to approximate communities' norms provides a more fine-grained analysis.[147] The aggregated percentages on individual

140 Bratton, 2007:99
141 Cancian, 1975
142 Lauth, 2000, 2004: 6
143 Lauth, 2004:7
144 Coleman, 1990
145 For instance, in one test, Wade M. Cole (2013) uses Samuel Huntington's classification of countries in one of nine 'civilizational indicators' and one 'other' category to analyse the relation between culture and human rights compliance. This variable obscures what, exactly, the shared rules in those 'civilizations' are, and consequently relies on untested assumptions that certain civilizations have a better match with human rights norms than others.
146 In another test, Cole (2013) measures the presence of different religious groups per country to see whether that influences levels of compliance. This variable again relies on untested assumptions on what kind of norms such religions prescribe, it neglects the idea that norms can change within religions, that there can be vast differences between communities and their norms within one religion, and finally neglects similarities between different communities from different religions.
147 Cole, 2013

beliefs are not only a more detailed description of which beliefs individuals actually adhere to, but also make clear how many people do not adhere to them. Moreover, these beliefs are directly reported by the individuals themselves, are not classified from the top down by one scholar, and are much more sensitive to differences within countries, and similarities across countries. Finally, the additional qualitative fieldwork allows for cross-checking and in-depth analysis of communities' norms, by drawing on current scholarship and letting experts and political actors discuss what they see as the dominant norms with regard to women's political participation and religious freedom in their country.

Patchwork compliance

This study distinguishes between the degree and range of compliance in order to be able to capture the wide variation in compliance. For the quantitative part, it is not always possible to do both. For example, in the case of the CEDAW, we can judge the degree to which Article 7 is implemented by investigating the number of women in national parliaments. To judge the range, we need to look at how many of the CEDAW articles were implemented in domestic legislation. Unfortunately, the range of compliance is difficult to measure quantitatively, as there is not sufficient data available per country. Therefore, the quantitative analysis focuses only on the degree of compliance. The qualitative chapters study both degree and range.

The data used to measure the degree of compliance with CEDAW's Article 7 (Right to political participation) is collected by the World Bank.[148] It shows the percentage of seats held by women in national parliaments. The variable used to measure the degree of compliance with the ICCPR's Article 18 (Freedom of religion) is collected by Cingranelli and Richards (CIRI). It indicates whether citizens can exercise, practise and proselytize others to their religion, or whether the state restricts them in doing so. A score of 0 indicates severe repression, such as governments that force conversions to a dominant or state-sponsored religion or try to restrict conversions to minority religions through intimidation. A score of 1 indicates moderate restrictions and a score of 2 compliance with religious freedom.[149] For the regression analysis, this variable was recoded into a dummy variable, in which 0 indicates compliance, and 1 moderate to severe repression. Importantly, the outcome variables were both lagged between 1 to 4 years, dependent on data availability, so as to make sure the hypothesized cause had time to affect the outcome.

The data source for this variable has not been without controversy, as it is based on the reporting of human rights violations by the US State Department Country Reports on Human Rights Practices. Critics were afraid the Reports would favor countries in which the

148 The World Bank Development Indicators are available at https://datacatalog.worldbank.org/dataset/world-development-indicators. Last accessed 13 May 2021

149 See the CIRI Data & Documentation for a complete description of the coding process; http://www.humanrightsdata.com/p/data-documentation.html. Last accessed 13 May 2021

US had an interest, and paint much too grim a picture of ideologically opposed regimes.[150] One study systematically comparing the findings of the Country Reports with Amnesty's Annual Reports has gone a long way in settling this concern. It concludes that there is no reason to believe that biases systematically affect the Country Reports in the vast majority of cases. Even more so, the assessments have clearly converged in their evaluations of states' violations over time.[151]

International vulnerability

Vulnerability to the international human rights community is operationalized as having strong economic ties with the US and/or the EU through aid and trade. This is not based on an assumption that these states are human rights protectors. Rather, the US and EU states are considered as having dominated the human rights agenda in the past decades, even as they have violated human rights extensively during that same period.[152] US and EU dominance in international relations over the past decades has resulted in a very strong Western influence in shaping the interpretation and application of international human rights.[153] Moreover, scholars argue that the Charter and Declaration of Human Rights strongly overlap with typically Western norms and political philosophy, and that this is why, in other parts of the world, human rights are perceived as a product of the West.[154]

Two variables are used to measure international vulnerability. The first is the extent of trade with EU member states and/or the US; the second is whether or not aid was received from EU institutions and/or the US - both as percentage of a country's GDP. These scope conditions are coded as dummies in which the condition (vulnerability) is present or absent. For aid, the condition in the reference category is not present, meaning no aid received, or present, meaning the country received aid from the US and/or EU institutions.

This coding had to be adjusted for trade, as all states in the dataset traded with either the US or EU member states. The reference category therefore includes all states that trade less than average with the US and/or EU member states as a percentage of their GDP. The second category includes all states that trade more than average with the US and/or EU member states. As this continuous variable was recoded into the presence or absence of the scope condition, the average was chosen as the cut-off point.[155] Appendix A lists

150 Poe et al., 2001:651
151 Poe et al., 2001: 677
152 Risse et al. 2013
153 Brems, 2004
154 Pollis & Schwab, in: Koggel, 2006
155 Selecting a cut-off point, instead of using international vulnerability as a continuous variable, is necessary as it is a mixed-methods study. Scope conditions are either present or absent. However, as this is the first mixed-methods design to work with cut-off points for international vulnerability, current literature working on international vulnerability does not give guidance on the selection of such a cut-off point. Future research is pivotal to confirm the validity of using the average as cut-off point. Qualitative Comparative Analysis (QCA) in particular will be a useful methodology, as it allows for investigation of the presence or absence of specific conditions. Including such a study was beyond the scope of the current project.

the countries in each of the two categories. All data on aid and trade comes from the US Census Bureau and the European Office for Statistics, Eurostat. [156]

Norm monitoring

The second scope condition is the monitoring of a norm. It is operationalized as how often and how extensively a state is evaluated by other members in the community on its compliance record. Both norms studied here are relatively closely monitored for each ratifying state, and therefore no variable is taken up in the models. In addition, there are no other indicators available that measure the extra monitoring by key states or other actors in the human rights community. Some studies have solved this by including naming-and-shaming as a proxy. However, this is not a suitable proxy for monitoring in this study, as the wish to avoid sanctioning leads state decision-makers to start a political dialogue. That is to say, it is the anticipation of being sanctioned – because a norm is closely monitored – that triggers the pathway of political dialogue as proposed in this project. Consequently, once a state is named-and-shamed, it is already beyond that stage. However, as this project analyses two closely-monitored human rights norms, the scope condition is already present. Still, the nuanced variation in monitoring over time, such as individual member states that start to monitor other states' norm compliance outside of UN structures, is taken up by the qualitative studies, as is further discussed in Chapter 4.

3.3 Mismatching norms and compliance with CEDAW Article 7

Figure 2 below probes the relation between mismatching norms and compliance with Article 7, women's right to political participation. It shows a downward slope that could indicate a correlation between the two; the higher the percentual presence of communities with norms that are a mismatch with CEDAW Article 7, the lower the degree of compliance with that Article.

Yet, the figure also clearly shows considerable variation in the degree of compliance between those countries that all have such a strong presence. The countries in the lower right corner of the figure - Jordan, Yemen, Qatar, Egypt, Iraq and Egypt - score the highest on the presence of communities adhering to norms that are a mismatch with CEDAW Article 7, all with percentages over of 80%. Yet there is still a lot of variation in their degrees of compliance. Qatar and Yemen have no women in their national parliament. Egypt has only 2% women in its parliament. It is followed by Jordan, which has 12% women in its national parliament. Iraq's parliament has over twice that percentage; 25%. This is as

156 Eurostat Database https://ec.europa.eu/eurostat/web/main/home; US Census Bureau; https://www.census.gov/en.html Last accessed 13 May 2021

much as Canada, where only a minority of 18% of the population believes men are better political leaders. Also Rwanda and South Africa stand out, as they are among the countries with very high degrees of compliance, while the presence of communities with norms that are a mismatch with CEDAW Article 7 is around 50% of their respective populations.

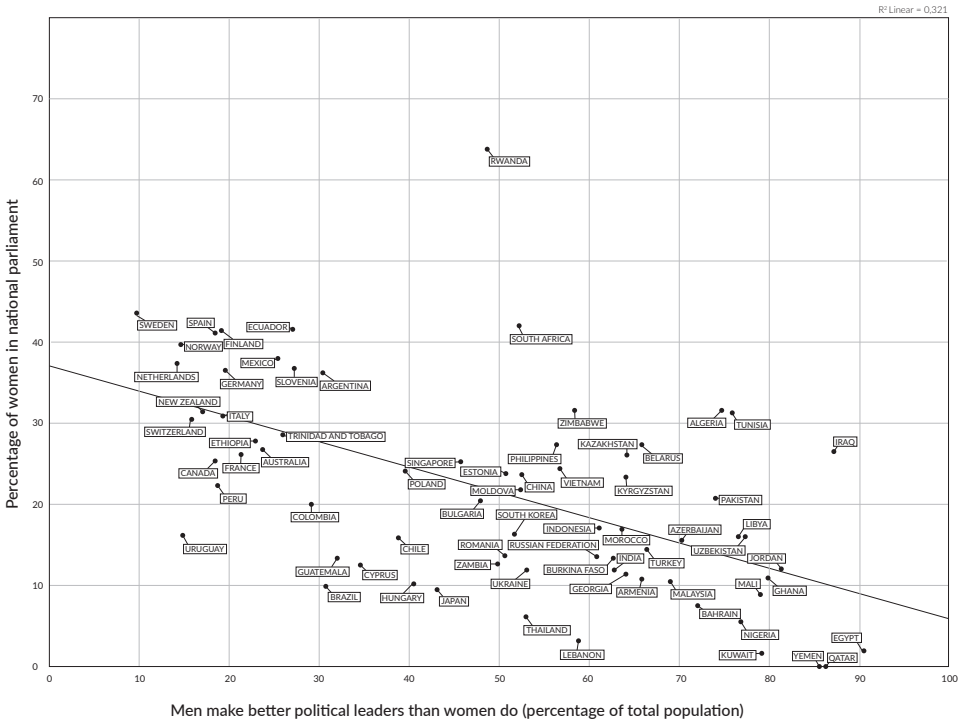

Figure 2 CEDAW: Presence of communities with norms that mismatch with CEDAW Art. 7 and percentage of women in national parliament as compliance with CEDAW Art. 7

The relation that was visible in Figure 2 is further investigated in Model 1 in Table 4. This model supports Proposition 1; that the presence of communities that adhere to norms that are a mismatch with CEDAW Art. 7 is significantly related to compliance. The higher that presence, the lower the degree of compliance with CEDAW Article 7. Each 1% increase in the presence of these communities is expected to result in 0.28% fewer women in parliament.

Table 4 CEDAW: Mismatching norms, international vulnerability, and percentage of women in national parliament as compliance with CEDAW Article 7

	Model 1 B (SE)	Model 2 B (SE)	Model 3 B (SE)	Model 4 B (SE)	Model 5 B (SE)
Presence of communities with norms which are a mismatch with CEDAW Art. 7 (0-100%)	-0.28 (0.05)***	-0.30 (0.05)***	-0.27 (0.14)*	-0.64 (0.16)***	-0.64 (0.22)**
Higher than average rate of trade with US/EU		5.41 (2.10)*	5.40 (2.10)*	4.77 (2.04)*	4.77 (2.06)*
Received aid from US/EU		3.95 (2.36)	4.02 (2.40)	4.32 (2.31)	4.30 (2.34)
Mismatching norms * Trade			-0.02 (0.09)		0.01 (0.09)
Mismatching norms * Aid				0.22 (0.10)*	0.22 (0.10)*
Constant	33.71 (2.44)***	21.11 (4.94)**	19.67 (8.37*)	36.40 (8.55)***	37.03 (11.51)**

*N=72 Notes: All tests are two-tailed. * P <.05, ** P < .01, *** P<.001*

Model 2 adds the scope condition of international vulnerability. It indicates that a higher-than-average rate of trade with the US/EU is significantly related with an increase in women in parliament. On the whole, states that trade more than average with the EU are expected to have about 5.4% more women in parliament, compared to states that do not trade as much with the US or the EU. Receiving aid was expected to increase levels of compliance as well. Yet, the relation is not significant when this variable is added to the current model which includes the presence of communities with norms that are a mismatch with human rights and trade with the US or EU member states.

Model 3 explores the relation between domestic norms and compliance further, by probing whether it is mediated by a state's international vulnerability operationalized as trade. The coefficient is small, at -0.02, and not significant. In short, when we understand vulnerability as trade dependency, Proposition 2 for the CEDAW is not supported.

Model 4 explores Proposition 2 again, but focuses on aid dependency. Even though aid does not have a significant independent relation with compliance, this model suggests it does mediate the relation between norms and compliance. That is to say, the relation between domestic norms and compliance is weaker in states that receive aid from the US or the EU. On the other hand, these norms have a stronger relation with compliance in countries that do not receive aid. This supports Proposition 2; that countries with a large presence of communities with norms that are a mismatch with human rights, and that are aid-dependent, are likely to have higher levels of compliance as compared to countries with similar sizes of such communities, but that are not receiving aid from the US or EU member states. The following model, Model 5, which includes interaction effects for aid and trade, shows similar results in terms of the direction and significance of the relation found.

The mediating role of international vulnerability in the relation between domestic norms and compliance is visualized in Figure 3 below. It demonstrates the extent to which international vulnerability weakens the effect of normative mismatches. For example, countries with a large majority presence of such communities (80-100%) and that did not receive aid, are expected to have between 0-5% women in their national parliaments. Countries with a similar majority presence between 80-100%, but that did receive aid, are expected to have many more women in parliament; between 10 and 15%.[157]

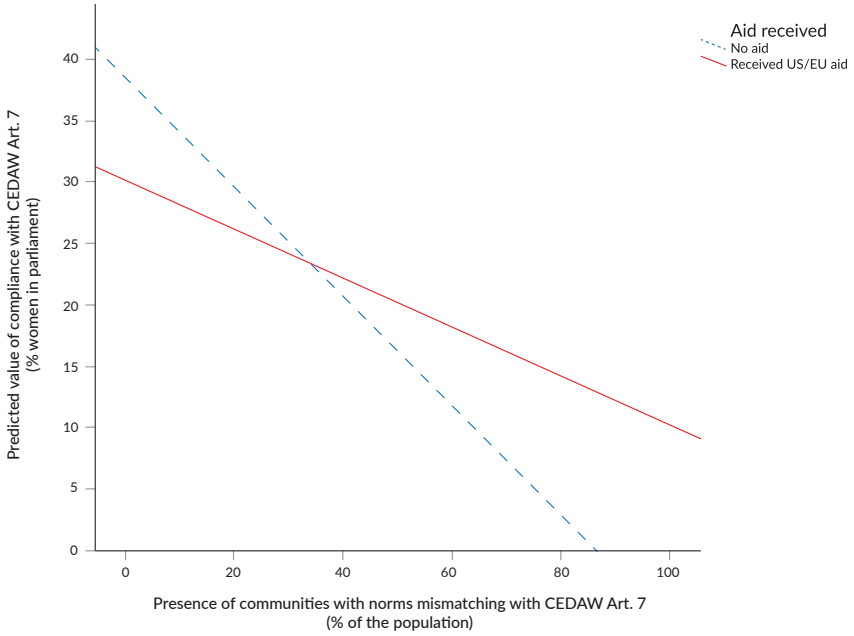

Figure 3: CEDAW: Interaction effect between mismatching norms and US/EU aid received

3.4 Mismatching norms and compliance with ICCPR Article 18

In Figure 4, we can see a pattern for ICCPR Article 18 which is similar to the one we saw for the CEDAW. It suggests a relation between normative mismatches and compliance; the larger the presence of communities with norms that are a mismatch with ICCPR Article 18, the less governments protect religious freedom. Also for the ICCPR, there is still a considerable difference in the degree of compliance between countries with similar percentages of normative mismatches. For instance, in the top five countries in terms of normative mismatches, four exercise severe and widespread repression of religion. The

157 The visualization of the non-significant interaction effect between mismatching norms and trade can be found in Appendix C.

fifth country, Japan, shares that high percentage of communities adhering to norms that are a mismatch with ICCPR Article 18, but exercises moderate repression only. When we investigate the figure further, we even see that countries with similar percentages of such communities can vary between severe and widespread repression to no repression at all. For example, countries such as Egypt, Jordan and Iraq have a majority presence of communities with norms that are a mismatch with Article 18 with percentages over 60%. These governments exercise severe and widespread repression of religion. Yet countries such as Colombia, that have a similarly large presence of such communities, do not restrict freedom of religion at all. Table 5 below further probes this relation.

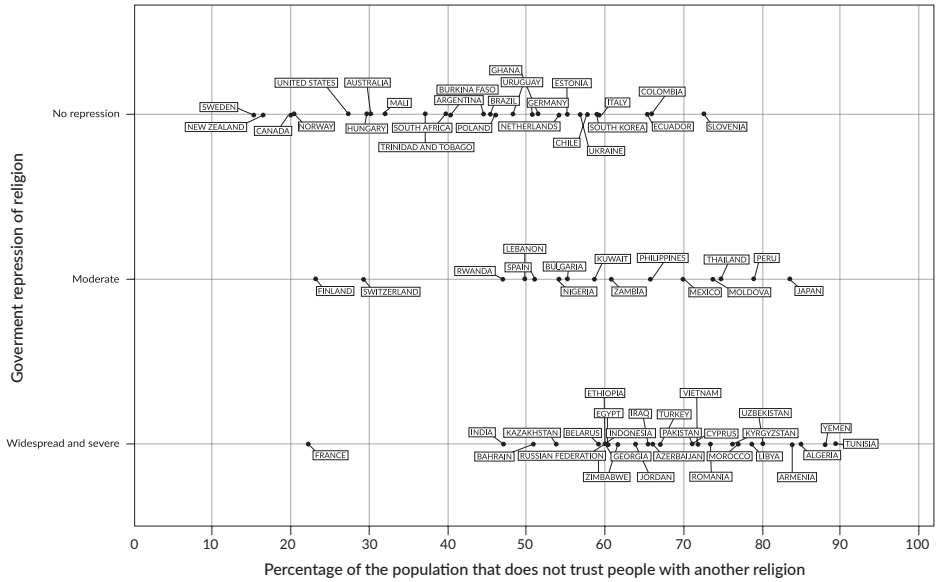

Figure 4: ICCPR: Presence of communities with norms mismatching ICCPR Art. 18 and government protection and repression of religion as compliance with ICCPR Art. 18

Table 5: ICCPR: Mismatching norms, international vulnerability and government protection or violation of freedom of religion as compliance with ICCPR Art. 18

	Model 1 Odds (SE)	Model 2 Odds (SE)	Model 3 Odds (SE)	Model 4 Odds (SE)	Model 5 Odds (SE)
Presence of communities with norms which are a mismatch with ICCPR Art. 18 (0-100%)	0.95 (0.02)***	0.96 (0.02)*	0.97 (0.02)	0.97 (0.02)	0.98 (0.03)
Higher than average rate of trade with US/EU		0.56 (0.67)	0.51 (0.67)	0.58 (0.65)	0.52 (0.68)
Received aid from US/EU		0.20 (0.64)*	0.24 (0.65)*	0.23 (0.65)*	0.24 (0.65)*
Mismatching norms * Trade			0.97 (0.04)		0.97 (0.04)
Mismatching norms * Aid				0.98 (0.04)	0.97 (0.04)
Constant	11.10 (0.89)**	14.71 (1.01)*	8.96 (1.33)	11.20 (1.30)	4.38 (1.52)

*N = 71 Notes: All tests are two-tailed. * P <.05, ** P < .01, *** P<.001*

For this logistic regression, the outcome variable was recoded to two categories; the first being moderate to widespread repression and the second, compliance. Therefore, the results need to be interpreted differently from the CEDAW linear regression model. The relation is described in an odds ratio; values less than 1 indicate that as the presence of communities whose norms are a mismatch with ICCPR Art. 18 increases, the odds that compliance occurs decrease.

The relation indicated in Figure 4 is confirmed in the findings of Model 1 and supports Proposition 1; that the larger the presence of communities whose norms are a mismatch with ICCPR Art. 18, the less likely states are to comply with ICCPR Article 18 on religious freedom. Each 1% increase in the presence of such communities multiplies the odds of compliance occurring by 0.95. As this number is below 1, it means the probability that a state complies actually decreases as the presence of normatively mismatching communities increases.

Model 2 adds states' international vulnerability in aid and trade. It indicates a very different dynamic in international vulnerability as compared to the CEDAW findings. Remarkably, having received aid from the US/EU makes states less likely to comply, when controlling for trade and the presence of communities with norms which are a mismatch with ICCPR Art. 18. Such states have an odds ratio on compliance of 0.20. Trading more than average with the US/EU is not significantly correlated with compliance when controlling for aid and mismatching norms.

Models 3, 4 and 5 investigate whether the relation between the presence of communities whose norms are a mismatch with ICCPR Art. 18 is mediated by states' international vulnerabilities as outlined in Proposition 2. The results do not support the proposition. In contrast with the CEDAW, international vulnerability does not weaken the effect of domestic norms on levels of compliance.

The visualization of the relation can be found below. It shows that countries with a smaller presence of communities whose norms mismatch with ICCPR Art. 18 are more likely to comply, as compared to states that have a larger presence. For example, states that only have a small minority presence (0-20%) of such communities, have a mean predicted probability of over 0.8 of complying. States that have a large majority presence (80-100%) have a mean predicted probability of well under 0.2 of complying.[158]

158 The visualization of the non-significant interaction effects between mismatching norms and aid and trade can be found in Appendix D.

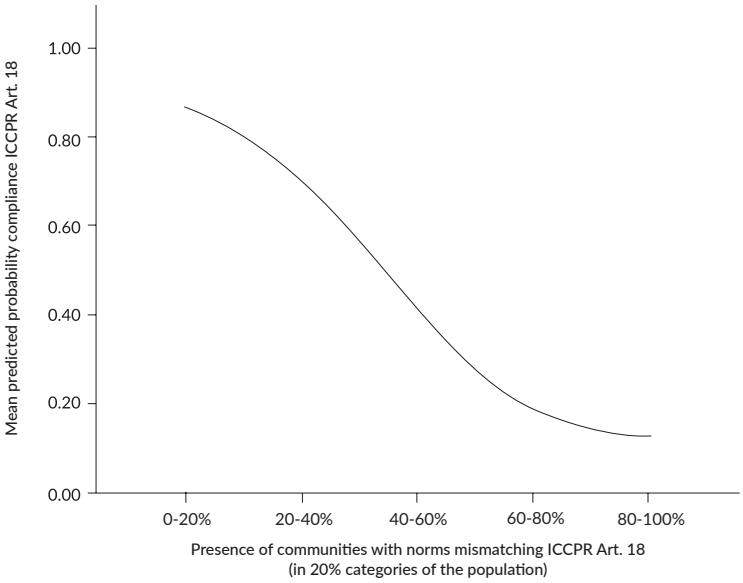

Figure 5: Relation between the presence of communities with norms which are a mismatch with ICCPR Art. 18 and the mean predicted probability of states' compliance with ICCPR Art. 18.

3.5 Case study selection

Using the findings of this chapter as an introduction to the following extensive qualitative case studies has several advantages. First of all, the findings in this chapter are instrumental in investigating correlations between the normative mismatch and compliance outcomes, and in highlighting the differences in these correlations between the two treaties. Nonetheless, the correlations found here do not imply causation. Case studies on the two treaties offer a solution here, as the operation of the proposed pathway of the political dialogue can be studied in detail. They enable an investigation of the pathway in general, but also shed further light on the differences that were identified in this chapter. Crucially, they make it possible to investigate whether or not the pathway of political dialogue is actually present in both instances; and if it is, to what extent it is used differently by leaders, and why. Finally, they allow for the observing of any expected, and unexpected, aspects of the pathway of the political dialogue.

In addition, qualitative methods allow for conceptual refinements with higher levels of validity. As is clear from the quantitative operationalizations, highly complex theoretical concepts such as international vulnerability needed to be simplified in order for them to be measurable in the same way across the world. Although that simplification is both

necessary and useful in order to compare the levels of vulnerability across different states, it does mean a loss of depth and runs the risk of conceptual stretching.[159] This depth is brought back in by investigating these same concepts as so-called 'sensitizing concepts' in the case studies.

Moreover, the quantitative analysis of this chapter does not allow for the identification of variables which may have been left out, or unexpected developments that influence the central relationship. By using qualitative data collection methods, in particular open-ended interviewing techniques, the fieldwork for the case study makes it possible to identify new developments or unexpected outcomes that determine the workings of the central pathway.[160]

As one of the aims of this study is to investigate a pathway, a typical case is most suitable.[161] Such an 'on-lier' has typical values on the theorized cause, scope conditions, and outcome of the political dialogue model, and the smallest possible residual to the predicted level of compliance.[162] The case should thus have at least a majority presence of communities whose norms are a mismatch with human rights, a higher than average rate of trade with US/EU and receive EU or US aid, and have observed levels of compliance that are very close to its predicted level of compliance. Jordan is exactly such a case, as is visible in the table below. The following chapter, Chapter 4, further describes the presence of the cause and scope conditions in the Jordanian context. Then, Chapter 5 and 6 describe how the pathway mediated the relation between mismatching norms and patchworks of compliance in Jordan for the CEDAW and ICCPR.

Table 6: Typical case values in Jordan

Treaty	Cause	Scope condition		Expected	Outcome
	Presence of normatively mismatching communities	Higher than average rate of trade with US/EU	Received aid from US/EU	Predicted compliance	Observed compliance
CEDAW Article 7	87.1%	Yes	Yes	10-15%	10.80%
ICCPR Article 18	67.7%	Yes	Yes	Repression	Repression

By choosing the case study in this way, some typical risks of qualitative research are avoided. For example, the choice of case study can be influenced by a researcher's personal preferences, existing knowledge or cognitive bias in favor of a particular proposition or outcome.[163] By basing the choice of case on the quantitative study, the risk of such a selection bias is minimized. Still, there are risks attached to selecting a typical case in which

159 George & Bennett, 2005:19-20
160 George & Bennett, 2005:21
161 Seawright & Gerring, 2008:299
162 Seawright & Gerring, 2008:299
163 George & Bennett, 2005:24

the independent and dependent variables vary as the propositions expect. It means that cases that could contradict the expectations are not taken into account, which could result in overstating the generalizability of the pathway to a too large universe of cases. As the selection of more cases, such as deviant cases, was beyond the scope of this research project, two other strategies will be used to mitigate this risk.

The first is making a clear demarcation of the universe to which the political dialogue model could apply.[164] As elaborated on in Chapter 2 and this chapter, these are the cases that share three main characteristics: presence of communities that adhere to norms that are a mismatch with human rights, ratification of a closely monitored human rights treaty, and vulnerability to the international human rights community through aid and trade.

The second is clarifying the limitations that come with selecting only Jordan from this universe. While it is a case that is typically representative of the demarcated universe, this does not mean the findings from this case study as presented in the following chapters can be simply and directly generalized to other countries with the same characteristics. The first quantitative probe suggests that there are generalizable correlations between normative mismatches and lower levels of compliance, but this does not mean that the mechanism that will be investigated in the following case studies on Jordan also mediates that correlation in all these countries. It is possible that there are other types of mechanisms driving this correlation in other countries that are not investigated in this project.

3.6 Conclusion

This chapter has probed the relationships between the cause, scope conditions and outcome of the political dialogue model; the presence of communities whose norms mismatch with human rights, variations in compliance with closely monitored human rights, and international vulnerability to the EU or the US. The findings support Proposition 1 on this pathway for both treaties: the larger the presence of such communities, the less likely states are to comply. However, the findings on Proposition 2 are different for the two treaties. In the case of the CEDAW, the effect of the presence of these communities is weaker in states that are internationally vulnerable, which supports Proposition 2. This mediating role of international vulnerability was not found for the ICCPR. These differences will be further investigated in the typical case of Jordan in the following chapters.

The findings in this chapter are not fully conclusive, though. An important limitation is the absence of some important control variables which could result in omitted variable bias. This is due, firstly, to the purpose and role of the quantitative analysis within the mixed

164 George & Bennett, 2005:25

methods design, as it is intended to probe the relation between the cause, scope conditions and outcome of the pathway proposed in chapter 2. Moreover, the dataset includes only a limited number of observations, which makes the adding of many more control variables problematic. Yet, the same models for CEDAW and ICCPR, with 'US or EU member state' included as control variable, can be found in Appendix C and D. These models are not very different from the ones presented in this chapter, as both the direction and the significant relations remain the same.

A more complicated statistical model, in particular a multilevel regression model in which more observations (several years per country) can be included, could have been used for a more rigorous test of the central relation. It allows for the inclusion of more control variables, as well investigating the relation over time. However, such a model was beyond the scope of the current study. Instead, this was taken up in a study by Violet Benneker, Stephanie Steinmetz and Klarita Gërxhani on compliance with CEDAW Article 7.[165] They used a multilevel regression model with the same independent and dependent variables, but included the control variables of GDP, GDP growth, level of democracy, dependence on trade, dependence on aid, population size, population growth, ratification of the Convention on the Political Rights of Women (CPRW), years since ratification of CEDAW, regime stability and levels of education.[166] Their results are similar to the ones presented here, as they suggest a strong relation between mismatching norms and compliance with CEDAW Article 7. Though this adds evidence to the propositions in the case of the CEDAW, it does not for the ICCPR, which still needs to be investigated in future research.

165 Benneker et al. 2020.
166 Davenport, 1995; Henderson, 1999; Inglehart & Norris, 2003; Mitchell & MacCormick, 1988; Poe et al., 1999; Thornton et al., 1983; Zanger, 2000.

The conditions for political dialogue in Jordan

4.1 Introduction

This is the first empirical chapter about the case study of Jordan. It investigates the key actors and presence of the scope conditions that start a political dialogue as well as the conditions that shape such a dialogue. It discusses Jordan in the first years of King Abdullah II's reign that started in 1999. It describes the country's vulnerability to the human rights community, and the norm monitoring and demands for compliance made by the respective UN monitoring bodies. It also describes the space the Jordanian decision-makers had to create consensus, by discussing the country's vulnerability to the Arab-Islamic international community and several domestic communities, and the specificity of their respective norms. The chapter then moves on to describe the changes in these conditions that occurred over time up to 2017, and finds that there are two focal points in which these conditions changed considerably: the period after 9/11, and the Arab Spring and its aftermath. The chapter concludes with further specified propositions as based on these findings, that will be further investigated in Chapters 5 and 6.

It is important to note that from this chapter onwards, the phrase 'international human rights community' that was used in previous chapters is replaced by 'Western-oriented international community'. This is not because of an assumption that Western states comply with human rights, or always sincerely advocate them. Rather, this name is adopted on the basis of the interviews in Jordan, in which many respondents stated they perceived human rights norms as 'Western' norms from 'the West', a community of states they felt were spreading norms different from their own. They contrasted these Western human rights norms with their own norms, which they described as Arab, Islamic or the often-used combination Arab-Islamic, shared within the Arab-Islamic community that they felt part of. Jordanian liberals, too, who on the whole agreed with the content of human rights norms, talked about 'Western' human rights norms as something different from Jordanian or Arab-Islamic norms. Because this research aims to stay as close as possible to the respondents' experiences and perceived differences between communities, the term 'Western-oriented international community' was adopted rather than 'international human rights community'.

4.2 Operationalization of main concepts

The following qualitative chapters of this project explore the pathway in between the cause and outcome: the start of a political dialogue, the use of strategies to create consensus, and the failure or success of the dialogue to make a decision on compliance possible. It was not possible for the scope conditions of international vulnerability and norm monitoring to be fully operationalized through quantitative indicators only, as discussed in Chapter 3.

Therefore, because this qualitative part allows for a more in-depth understanding and a context-specific approach, these concepts are further elaborated on here.

International vulnerability

International vulnerability is operationalized as the extent to which a state is dependent on other states. It is treated as a sensitizing concept, as are all other concepts in the qualitative study.[167] This means that the theoretical conceptualizations were used as a base line, but that during interviews, respondents were also given the opportunity to discuss what they perceived as a period of vulnerability and why. Consequently, vulnerability entails, alongside trade and aid as percentage of GDP, dependency on other states' oil, tourist and expatriate flows, and participation in international institutions. In addition, respondents were asked to describe which community they believed the state belonged to; to describe what they believed were the normative preferences of the decision-makers; whether those were in line with a specific international community; and whether those preferences were debated or critiqued and if so, by whom. Moreover, it was discussed at which moments in time they believed state decision-makers saw a direct need to demonstrate they were part of an international community and if so, which one, and whether there were immediate security concerns brought about by that vulnerability, such as concerns over the economic and military consequences of regional instability, conflict and refugee flows.

Norm monitoring

The baseline operationalization of norm monitoring is how often and how extensive a state is evaluated on its compliance record through institutionalized, monitored procedures, and by other members in the community. Yet, because it is used as a sensitizing concept, it is possible to include, also, other actors' monitoring, political actors' understanding and perception of the monitoring processes, and changes in monitoring over time. Political actors and experts were asked to discuss whether, when, how often, and by which actors the country was evaluated on its compliance record.

Domestic vulnerability

Domestic vulnerability is considered to be the extent to which decision-makers are dependent on domestic communities to stay in power. It includes institutional rules that allow communities to remove a leader from power, such as democratic voting procedures, but also specific domestic communities' veto power outside of institutionalized procedures, and protests that threaten the power position of a decision-maker. [168] Alongside the consideration of the level of democracy as measured by the Polity IV scale,[169] political actors and experts were asked which domestic communities have political leverage and why, the extent to which these communities have veto power over a state leader's decisions, and

167 Boeije, 2010; Bryman, 2008
168 Cardenas, 2007: 12; De Mesquita et al, 2005; Mo, 1995; Lupu, 2015
169 Davenport, 2007

when and why protests were perceived as a serious threat to the state leader. Moreover, by treating it as a sensitizing concept, it was also able to capture informal arrangements surrounding formal democratic measures, such as informal agreements between parliament and government. Moreover, political actors and experts were asked which community they believed the state actors wanted to belong to, which domestic community had similar normative preferences as state decision-makers, and whether the decision-makers' preferences were debated or critiqued and if so, by whom.[170] Moreover, specific attention was paid to investigating at which moments in time they believed decision-makers were under particular pressure to demonstrate they were part of a certain community.

4.3 International vulnerability

Though the Jordanian political system has an elected parliament, and a government appointed by the King, the Royal Court and specifically the King hold the most decision-making power. Jordan's vulnerability to both the Western-oriented and Arab-Islamic international communities is considerable.

When King Abdullah II of the Hashemite family ascended the throne in 1999, Jordan was notably resource-poor, and had very limited agricultural land, extremely limited water sources, and no oil.[171] It needed strong partnerships with other countries to survive; "it is a country that is navigating many different donors. It is like one big NGO sometimes; it is a donor-led country."[172] Subsequently, Jordan could not afford to alienate any (potential) allies, donors, or investors, and needed to prove itself a reliable partner.[173]

King Abdullah II inherited an estimated 6.8 billion USD in foreign debt, and much of it was to Western states and organizations.[174] That economic dependence was further increased in the first years of his reign. From the very start, he had an extensive international travel schedule, making economic pitches to all potential investors and donors, and also invited foreign visitors to Jordan itself. His frequent visits to the US resulted in Jordan becoming the fourth country to sign a US Free Trade Agreement in October 2000, after Israel, Canada and Mexico. Moreover, the country became one of the US' Qualifying Industrial Zones. Subsequently, the King also arranged a Free Trade Agreement with the European Free Trade Association in June 2001, and signed an Association Agreement with the EU in May 2002. Within a year after coming to power, he arranged for Jordan to join the WTO, and for it to host the World Economic Forum, "underscoring the esteem with which the

170 Gurowitz, 1999
171 Milton-Edwards & Hinchcliff, 2009:69; CIA World Fact Book Jordan; UNDP Human Development Report Jordan, 2004
172 Interview 21 (International norm entrepreneur), interview by Violet Benneker, Amman 2017; Ryan, 2004:45.
173 Ryan, 2018
174 Milton-Edwards & Hinchcliff, 2009:89

country is held in some of the wealthiest circles of private business capital and also in some of the most powerful regional and global states."[175]

Jordan was also dependent on Western states for military resources and support in this period. Historically, the role of military protector had been taken up by Britain, but over the years that role was largely transferred to the US. There was still considerable military cooperation between Britain and Jordan, but it was the US that had become Jordan's "military support of last resort."[176]

Notably, King Abdullah inherited leadership of a country that was perceived as wanting to be a part of the Western-oriented international community, and not only because of the royals' frequent visits to the US.[177] Abdullah's father, King Hussein, was seen as 'Westernized' for several reasons. He was educated at Harrow School in England, and later trained as an officer cadet at the English Sandhurst Military Academy. He married an English woman, Antoinette 'Toni' Gardiner and Abdullah II's mother, in a second marriage. His English was flawless, and over the 50 years that he ruled Jordan, he built an extensive network in the highest political circles in the West. Within those circles, he gained the reputation of being a heroic leader, the 'Plucky Little King', that kept his country stable despite all the challenges of the region.[178] Over time, the Hashemite royal house became a credible Western-style, or Anglo-Arab royal family, and maintained close contacts with other royal families in Europe, such as the British, the Spanish and the Dutch.[179]

According to many, King Abdullah had the same Western inclination as his father.[180] He is half-English himself, through his mother Antoinette Gardiner who raised him.[181] Both his parents encouraged him to choose a Western-oriented educational path similar to that of his father. Abdullah completed his primary education in Britain, and later on moved to the US to go to college. Afterwards, he went back to England to attend Sandhurst Military Academy, as his father had done before him.[182] Due to this upbringing, it is rumoured that his English was better than his Arabic when he eventually ascended the Jordanian throne.[183]

Concerning women's rights norms specifically, there are indications that King Abdullah was not against the principles of women's rights and equality which are set out in CEDAW. Before Abdullah was made heir to the throne in 1999, he married the Kuwaiti-born Palestinian career woman Rania Al-Yassin in 1993. Since this was not a political marriage

175 Ryan, 2018:169
176 Milton-Edwards & Hinchcliff, 2009:99
177 Ryan, 2004; Milton-Edwards & Hinchcliffe; Shlaim, 2008; Brand, 2013; Ryan, 2018:169
178 Milton-Edwards & Hinchcliffe, 2009:3
179 Milton-Edwards & Hinchcliffe, 2009:3-4, 112; Abdullah II (King of Jordan), 2012:129
180 Ryan, 2004; Milton-Edwards & Hinchcliffe; Shlaim, 2008; Brand, 2013
181 Milton-Edwards & Hinchcliffe, 2009:57
182 Abdullah II (King of Jordan), 2012: 357
183 Milton-Edwards & Hinchcliffe, 2009; Ryan, 2004; Shlaim, 2008.

(he was to remain a military leader only), this marriage gives some clues about Abdullah's own position on women's rights. In the Jordanian context, Rania could be considered an a-typical Jordanian woman. Whereas about 12% of Jordanian women were employed at the time, in the early nineties, Rania was a career woman when they met and she insisted on continuing working after their marriage.[184] Also, the clothes she usually wore were not typical for Jordanian women, as she tended to wear pants as well as skirts and no veil. Oprah Winfrey has labelled her an international "fashion icon", and Vogue has declared her Instagram account a "Fashion lover's fantasy".[185]

Other women in Abdullah's family also seemed a-typical in the Jordanian context. For instance, his sister Aisha became major general in the Jordanian army, and the first woman from the Middle East to graduate from the military academy Sandhurst. During her brother's reign, she would become military attaché to the Jordanian embassy in Washington. As King Abdullah later commented; "It is women like Aisha, with her active role in the armed forces, and Rania, with her leadership position in philanthropic and charitable organizations, who are showing that the potential for women in our country is unlimited."[186] Also, he openly regretted how "Many Arab men are extremely prejudiced and believe that women should either stay at home and raise children or be restricted to certain professions. … Somewhere along the line you need more women like [Aisha and Rania] to stand up and say 'Let me lead my life as I want to lead it!'"[187]

CEDAW entrepreneurs in Jordan believed the King was on their side when it came to gender equality; "I know that if you give him the freedom to change everything, he will be 100% with women's issues! […] We trust the King, and the Hashemite family; 100% [they are with us] with their mind, with their perceptions, with their beliefs. But we understand sometimes the King has to strike a balance with the different communities and most of [the society], and what is the best in Jordan."[188]

Regarding religious freedom, there were indications that King Abdullah supported religious freedom for all religions. His family's descendance from the Prophet Mohammed, and the long religious legacy within the Arab-Islamic community made him very tolerant to other religions, according to him; "My view of Christians and Jews, because of my father's teachings and the family teachings—I was always brought up to believe that they are part of the larger family. Does that make sense? I don't have that extremism."[189]

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184 World Bank Development Indicators, Labor force participation rate, female (% of female population aged 15+) (modeled ILO estimate) Jordan, 1993, https://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS?locations=JO; Last accessed 13 May 2021. Abdullah II (King of Jordan), 2012

185 Edward Barsamian, "Queen Rania of Jordan's Instagram feed is a fashion lover's fantasy", *Vogue*, September 29, 2017

186 Abdullah II (King of Jordan), 2012:133

187 Abdullah II (King of Jordan), 2012:204

188 Interview 70, (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017

189 Jeffrey Goldberg, 'The modern King in the Arab Spring', The Atlantic, April, 2013

4.4 Human rights monitoring

International vulnerability is only one of the scope conditions of the political dialogue. Combined with human rights monitoring, these conditions are, together, necessary and sufficient in order for state leaders to initiate a dialogue to enable an increase in compliance. This paragraph discusses the monitoring for the CEDAW and the ICCPR separately.

CEDAW

At the international level, the CEDAW Committee was the most constant monitor of Jordan's compliance. Over a period of 18 years (1999-2017), Jordan submitted 4 country reports that were evaluated in 1999, 2006, 2010, and 2015. Jordan also submitted a report for the UN's Universal Periodic Review (UPR) review in 2009, in which its women's rights record is also evaluated. Alongside UN bodies, the US also monitors and reports on the implementation of women's rights through the yearly US Department of State Human Rights Report.[190]

Shortly after King Abdullah ascended the throne in 1999, Jordan submitted its periodic report to the CEDAW Committee. After its deliberation, the CEDAW Committee praised Jordan's show of political will in complying with the treaty. Jordan was "to be commended for demonstrating that international law was compatible with the principles of the Sharia and that it was possible to reconcile modernity and tradition."[191] At the same time, though, the Committee considered Jordan to be far from full compliance. Of the many recommendations the Committee made, there were four major issues that Jordan needed to solve in order to comply with the CEDAW.

First, the Committee urged the Jordanian government to increase compliance with several different articles, but especially Article 7 - which gives women the right to political participation. It recommended that the government take temporary legislative measures according to Article 4.2 to increase women's participation in politics. At that time, only one woman had actually ever made it to parliament since it was established, and that was on a Christian quota seat in 1991. In the 1997 elections, no woman made it to parliament despite active attempts by women's organizations.

Second, the Committee wanted Jordan to publish the treaty in the National Gazette. Even though the UN had registered Jordan as a ratifying state in 1992, it had actually never really ratified the CEDAW.[192] According to the Jordanian constitution, treaties that "involve financial commitments to the Treasury or affect the public or private rights of Jordanians shall not be valid unless approved by the National Assembly."[193] The Jordanian government

190 U.S. Department of State, Human Rights Reports: Jordan, all years 1999 to 2017
191 CEDAW/C/SR./456 (August 2, 2001)
192 United Nations Office of the High Commissioner, http://indicators.ohchr.org/ Last accessed August 8, 2018
193 Constitution of the Hashemite Kingdom of Jordan, Article 33 (ii)

had filed all necessary documents with the UN in 1992, but no government had sent the treaty to parliament in the meantime. Consequently, all human rights treaties that were registered as ratified by the UN, were actually never recognized as ratified domestically.[194]

In addition, the members of the CEDAW Committee urged Jordan to reconsider its reservations. Jordan had placed reservations on Article 9.2, which grants women the right to pass on their nationality to their husbands and children; Article 15.4, granting women freedom of movement and the right to choose their own residence, and Article 16.1 (c), (d) and (g), giving women the same rights and responsibilities as men in marriage and divorce, the same rights as parents in matters relating to their children, and the same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation.

Finally, it pushed Jordan to include the word 'gender' in Article 6 of the constitution. At that moment, the Article read "Jordanians shall be equal before the law. There shall be no discrimination between them as regards to their rights and duties on grounds of race, language or religion."[195]

At the domestic level, the Jordanian National Commission for Women (JNCW) did a large part of the monitoring of Jordan's level of compliance with the CEDAW in the period when Abdullah ascended to the throne. As a government organization, it also wrote Jordan's CEDAW country reports. Women's rights organizations such as the JNCW were rather well-organized, but never really independent.[196] They were supported by the Hashemite regime, often through royal patronage. For instance, Princess Basma, King Abdullah's aunt, was president of the JNCW. But despite the royal support, activists did not believe they enjoyed a lot of popular support, and felt they were opposed by, for instance, tribal leaders and Islamists.[197] Still, the organization had a relatively large amount of freedom to monitor the government's CEDAW compliance. According to many CEDAW entrepreneurs, women's rights was one of the few topics on which you could criticize the government without retribution.[198] In 1999, Jordanian women's rights organizations were particularly vocal about the lack of women in parliament, and pushed for a quota.

ICCPR

At the international level, the UN Human Rights Committee monitored the implementation of the ICCPR. During the time period studied, Jordan submitted two country reports - one in

194 Interview 69, (Expert on law) interviews by Violet Benneker, Amman 2017; 'Opinions and analysis 2' Wadi M. Sadi, Jordan Times Archive, 29 June 2003
195 Constitution of the Hashemite Kingdom of Jordan of 1952
196 Interview 71 (Expert on women's rights), interview by Violet Benneker, Amman 2017
197 Interview 70 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017; Husseini, 2010
198 Interview 58, (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017; Interview 29 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017; Interview 26 (Jordanian CEDAW norm entrepreneur), Amman 2017; Interview 68 (Jordanian CEDAW entrepreneur), interview by Violet Benneker, Amman 2017.

2009 and one in 2016. The Universal Periodic Review monitored religious freedom as well, and Jordan submitted its UPR report in 2009. Alongside these human rights committees, the UN special rapporteur on freedom of religion or belief visited Jordan in 2008 and 2013. The US monitored religious freedom in a separate annual Department of State International Religious Freedom Report.

In the last report submitted to the ICCPR Committee before King Abdullah succeeded his father in 1999, the principal subject of concern was Jordan's lack of clarity in the legal status of the treaty.[199] Jordan had become a state party to the Covenant in 1975, but subsequent governments had undertaken little to ensure domestic laws were in line with the Covenant. Therefore, the Committee noted "with concern" that the general legal framework still did not conform with the provisions of the Covenant, and that the constitution did not explicate the relationship between international conventions and domestic law.[200] The fact that the treaty was actually not ratified, since it was never published in the Official Gazette, seems to have been unknown to the Committee at that time, as it was not commented upon.[201] According to the UN's register, Jordan signed the treaty in 1972 and ratified it in 1975.[202]

Moreover, the Committee saw "shortcomings in the observance of the provisions of Article 18" on religious freedom.[203] It was particularly concerned about, first, the restrictions on the freedom of religion of non-recognized and non-registered religions. Second, it expressed concern about the "practical implications to the right to have or adopt a religion of one's choice, which should include the freedom to change religion."[204] The Committee therefore urged Jordan to comply specifically with the Committee's General Comment on Article 18.[205] That Comment explicates that religious freedom includes freedom for all kinds of religions and convictions: "Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms belief and religion are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions."[206] The General Comment also stresses that religious freedom includes the right to convert, and freedom of thought and expression regarding religion: "Article 18 [...] does not permit any limitations whatsoever on the freedom of thought and conscience or on the

199 'Consideration of reports submitted by states parties under Article 40 of the Covenant', Human Rights Committee, Fifty-first session, 10 August 1994
200 'Consideration of reports submitted by states parties under Article 40 of the Covenant', Human Rights Committee, Fifty-first session, 10 August 1994
201 Later, other Committees, notably the CEDAW Committee, did comment on it.
202 United Nations Office of the High Commissioner, http://indicators.ohchr.org/ Last accessed August 8, 2018
203 'Consideration of reports submitted by states parties under Article 40 of the Covenant', Human Rights Committee, Fifty-first session, 10 August 1994
204 'Consideration of reports submitted by states parties under Article 40 of the Covenant', Human Rights Committee, Fifty-first session, 10 August 1994
205 'Consideration of reports submitted by states parties under Article 40 of the Covenant', Human Rights Committee, Fifty-first session, 10 August 1994
206 'General Comment No. 22 (48) (article 18)' General Comment adopted by the Human Rights Committee under Article 40, Paragraph 4, of the International Covenant on Civil and Political Rights, 27 September 1993.

freedom to have or adopt a religion or belief of one's choice. These freedoms are protected unconditionally, as is the right of everyone to hold opinions without interference in article 19 (1)."[207] In short, the Committee urged Jordan to increase its degree of compliance, by guaranteeing freedom of religion and belief for its whole population, not just a subset, and to make sure everyone had the freedom to have their own opinions on religion and belief.

Domestically, the relative freedom that women's rights organizations enjoyed to monitor the implementation of CEDAW norms stood in stark contrast with the very limited space similar actors for the ICCPR and religious freedom had. The most likely domestic candidate for the monitoring of the ICCPR's religious freedom would be the National Center for Human Rights (NCHR), that has published an annual report on the implementation of ICCPR every year since 2003. Like the state-affiliated JNCW that monitored CEDAW implementation, the NCHR was established by royal decree and funded by the government. Though many of the ICCPR's articles were monitored in the NCHR's reports, religious freedom was not one of them. Only the first report of 2003/2004, in the paragraph on freedom of expression, criticized the government for restricting religious freedom in mosques. After that report, not one of the later reports evaluated Jordan's record of religious freedom.[208] There were very few other entrepreneurs present in Jordan who worked on religious freedom from an ICCPR framework. As one commented, "You will never push for that. That is not a topic. [interviewer: What would happen if you would?] Other than.. I don't know… we will probably be vandalized, we will certainly be outlawed."[209]

4.5 Space for creating consensus: the Arab-Islamic community

Once a political dialogue is initiated, a decision-maker can use several strategies to make an increase in compliance acceptable to the communities involved. However, the space that is available to use those strategies is dependent on the leader's vulnerability to the other communities involved, and on how highly specified their respective norms are. The configuration of these path-shaping conditions in Jordan is described in the following paragraphs.

Vulnerability to the Arab-Islamic community

The Western inclination of the Jordanian monarchy sometimes threatened their social credibility within the Arab-Islamic community.[210] In the words of a former foreign minister, "Jordan has often been regarded as too pro-Western, which has frequently cast doubt over

207 'General Comment No. 22 (48) (article 18)' General Comment adopted by the Human Rights Committee under Article 40, Paragraph 4, of the International Covenant on Civil and Political Rights, 27 September 1993.
208 Jordan National Centre for Human Rights, all years 2003-2018
209 Interview 21 (International norm entrepreneur), interview by Violet Benneker, Amman 2017
210 Milton-Edwards & Hinchcliffe 2009:112, 116

the sincerity of its objectives and the credibility of its ideas [among other Arab leaders]."[211] Still, even though Jordan was seen as a country with a 'Westernized' monarchy, that is not how King Abdullah liked to position himself. In his own words, "I have never felt that interacting with Western culture comes at the expense of my identity as an Arab or Muslim. As somebody born in the East but educated in the West, I feel deep affinity for both cultures."[212]

Historically, the Hashemites were religious, rather than political, leaders. The family has a very long legacy within the Arab-Islamic international community. As part of the Quraysh tribe, the Hashemites claim direct descent from the Prophet Mohammed through his daughter Fatima. The family took its name from Hashem, who was the great-grandfather of the prophet, and a prominent member of the Quraysh tribe.[213] They were the guardians of Islam's holiest sites in Mecca and Medina for centuries before they were ousted by the Al-Sa'ud family in the early twentieth century.[214] The family started to play an influential political role at that time, shaping much of the developments within the Arab-Islamic community. For instance, King Abdullah II's great grandfather, with whom he shares his name, is considered the architect of the Arab Revolt, and the family occupied the thrones of the Hejazi, Syrian and Iraqi kingdoms.[215] The family has lost these thrones, as well as their position as guardian of Medina and Mecca, but they are still the official guardian over Islam's and Christianity's holy sites in Jerusalem.

When King Abdullah ascended the throne in 1999, the Hashemite family no longer aspired to the creation of an extensive Arab union as advocated during the Arab Revolt. However, the Jordanian population did still feel closely connected to the Arab-Islamic community.[216] This took different forms at the domestic level. For instance, Salafist groups aspired to the creation of one unified Islamic state. Left-wing groups, though no longer as strong a movement as they once were, still supported pan-Arabist ideals. The Muslim Brotherhood was, at its core, a regional organization and had its head offices in Egypt. Consequently, the need for the Hashemite rulers to present themselves as an inherently Arab state remained logical and pivotal. This need often resulted in the playing of a "delicate balancing act, between the Janus-faced demands of Jordan's Western leanings and an Arab and predominantly Muslim popular base".[217]

In addition, the country was economically vulnerable to states in the Arab-Islamic international community. A former prime minister and later chief of the Royal Hashemite

211 Muasher, 2008:106
212 Abdullah II (King of Jordan), 2012, 16
213 Shlaim 2009:2
214 Shlaim 2009:2
215 Shlaim, 2009
216 Milton-Edwards & Hinchcliffe 2009:117
217 Milton-Edwards & Hinchcliffe 2009:117

Court noted that the Jordanian "geographic proximity and demographic nature puts us on the hot seat. Looking inward, King Abdullah is convinced that the Jordanian economy is very vulnerable to these regional problems."[218] The country depended on its Arab neighbours mostly for their oil, economic aid, tourism and remittances from Jordanian expats. In 1999, Jordan was particularly dependent on Iraq for its oil. A lucrative Iraqi-Jordanian oil deal practically meant the country was getting 100% of its oil from Iraq at significantly reduced prices.[219] But Saudi Arabia and the Gulf states were also very important to Jordan's revenue, and remain so to this day.[220] Most of these states gave significant amounts of aid and loans. For instance, by the time Abdullah came to power, the Arab Fund for Economic and Social Development provided 53% of the multilateral donor money Jordan received, totalling up to over 200 million USD. Thereby, rich Saudi and Gulf citizens flocked to Jordan every summer for its relatively mild climate of 40 degrees Celsius, bringing with them money to spend on services and major investments in hotels and houses. Jordanians, in return, travelled to Saudi Arabia and the Gulf as expatriates. Remittances from these workers made up a considerable source of income for the Jordanian state.[221]

The high dependence on states within the Arab-Islamic community also came with a significant vulnerability to its political turmoil.[222] Most major political events of the Middle East affected Jordan's development instantaneously and devastatingly. Sharing borders with Israel, the Palestinian West Bank, Syria, Iraq, Saudi Arabia and Egypt, this is not a surprise. The creation of the state of Israel flooded Jordan with refugees, and led to the loss of the fertile West Bank in the following Arab-Israeli wars. Furthermore, the Iran-Iraq War in the 1980s, the Palestinian Intifada, and the first Gulf War had grave economic consequences.[223] The latter, especially, demonstrates how the country's great international vulnerability can lead to instant economic problems. In this war, Jordan's then-King Hussein was split between loyalty to its Western and Gulf partners on the one hand, and his population's loyalties to Iraq and the Ba'athist party on the other. As a result, he refused to clearly side with Kuwait and the US. As punishment, all Jordan's expatriates in the Gulf were sent home and US funds and aid were directly terminated, resulting in an economic catastrophe affecting the entire country. [224] To this day, these events remain a national trauma lingering in the back of Jordan's decision-makers' minds, including that of King Abdullah II himself.[225]

Norm specificity within the Arab-Islamic community

Islamic thought had considerable social and political relevance throughout the Arab-Islamic

218 Ryan, 2018:169
219 Ryan, 2004:46
220 OECD, Investment Policy Review of Jordan, December 6, 2013:34
221 Milton-Edwards & Hinchcliffe, 2009:84-92
222 Ryan, 2018:178
223 UNDP Human Development report Jordan 2004
224 UNDP Human Development Report 2004: 35-38
225 Ryan, 2004:46

community, and it shaped the policy and practice of states as well as regional organizations, such as the Arab League and the Organization of the Islamic Conference (OIC). The public role of religion in individual states was formalized in their constitutions, of which a majority declared Islam the official religion of the state, recognized Islam as part of state law, or established state courts that apply Islamic law.[226] The role of Islamic norms for the Arab-Islamic community was captured in international treaties and declarations, such as the Arab Charter on Human Rights (1994, updated in 2004), the Charter of the Organization of the Islaic Conference (1972), and the OIC's Cairo Declaration on Human Rights in Islam (1990).

These treaties and declarations also specified women's rights and rights regarding religious freedom. For example, the Cairo Declaration describes the roles of men and women in family and society. It is generally considered as a mismatch with the CEDAW, as it is interpreted as denying full gender equality.[227] Article 6 specifies that "Woman is equal to man in human dignity, and has her own rights to enjoy as well as duties to perform; she has her own civil entity and financial independence, and the right to retain her name and lineage. (b) The husband is responsible for the support and welfare of the family." In addition, it outlines that "The family is the foundation of society, and marriage is the basis of its formation".[228]

Regarding freedom of religion, the Declaration specifies in Article 10 that "Islam is the religion of unspoiled nature. It is prohibited to exercise any form of compulsion on man or to exploit his poverty or ignorance in order to convert him to another religion or to atheism." Article 27 safeguards individuals' right to practice their faith, but states nothing about conversion or apostasy: "Persons from all religions have the right to practise their faith. They also have the right to manifest their opinions through worship, practice or teaching without jeopardising the rights of others. No restrictions of the exercise of the freedom of thought, conscience and opinion can be imposed except through what is prescribed by law." Generally speaking, the understanding of apostasy as forbidden has been an important part of Islamic thought within the Arab-Islamic community. Particularly traditionalist Muslim states understand this norm to be an essential part of Islam, and that it should therefore remain unaltered. However, the traditional punishment (death) is no longer practised.[229]

4.6 Space for creating consensus: domestic communities

Vulnerability to domestic communities

The power of the Hashemite family was considerable at the start of the time period studied, and concentrated in the Royal Court. Domestic vulnerability was therefore not as great - by

226 Baderin, 2007:323
227 Hilal, 1997
228 The Cairo Declaration http://hrlibrary.umn.edu/instree/cairodeclaration.html. Last accessed 15 May 2021
229 Emon et al. 2012; Rehman & Breau, 2007

a long way - as in democracies, where a leader can be voted in and out of office. According to the constitution: "The King is the Head of State, and is immune from any liability and responsibility."[230] He appoints the government and the senate. Though parliament was chosen through, usually, free elections, it had very little power. New laws were created by the King, his prime minister and government, and then sent to parliament for approval. Voting on new laws was sometimes preceded by "a phone call", in which it was made clear what the required vote was.[231] When a law was rejected by parliament, it was not necessarily fully off the table. Often, it continued to act as a temporary law. The King could dissolve parliament at any moment in time. In addition to having considerable legislative powers as head of state, the King was also the supreme commander of the Jordanian army, and was the one who declared war, concluded peace and ratified treaties and agreements.[232]

The Hashemite King was thus not very vulnerable to domestic communities, as they had no legal way to oust him from power. Nonetheless, the Hashemite leadership seemed to be quite aware that it could only hold that power as long as it had the support of specific communities. In fact, the legitimacy of Hashemite rule lay in the fact that they could be rulers to all, and were not full members of one specific group. It was their role to stand above domestic divisions, and to safeguard the balance between the different communities.[233] In the words of one expert; "The Jordanian-Jordanians do not want to be ruled by the Palestinian-Jordanians, and vice versa. No tribe wants to be governed by another tribe, or by Islamists. This is the role the Hashemites have. They are the balance, and they keep the balance."[234]

However, in this balance, the conservative tribes such as the Rifa'i and the Abbadi tribes were traditionally given the greatest say as loyal supporters of the monarchy. For instance, parliamentary seats were distributed in such a way that the tribes always won a large majority of the seats. Also, other important state institutions, such as the secret service and the army, were dominated by the tribal families. The secret service in particular was, and remains to this day, a powerful organization in Jordanian politics.[235]

The tribes were highly organized. For instance, they established family leagues, which were registered as charitable organizations. The internal regulations of those organizations closely resembled the methods and mechanisms of political parties, especially during elections. At those times, they jointly decided on who their candidate for the parliamentary

230 Constitution of the Hashemite Kingdom of Jordan, Article 30.
231 Interview 25 (Political actor), interview by Violet Benneker, Amman 2017; Interview 20, (Political actor), interview by Violet Benneker, Amman 2017; Interview 17 (Political actor), interview by Violet Benneker, Amman 2017
232 Constitution of the Hashemite Kingdom of Jordan, Article 30
233 Ryan, 2018:105
234 Interview 44 (Political analyst), interview by Violet Benneker, Amman 2017, The Hague 2018
235 Ryan, 2018:161

seat would be, and everyone would campaign and mobilize voters for this candidate.[236] Due to their high level of organization, and their role as the traditional backbone of the Hashemite Court, these tribes held considerable veto power, and their demands usually weighed heavy in Royal Court decision-making processes.[237]

The relation between King Abdullah and the tribes was not an easy one, though. In an interview by journalist Jeffrey Goldberg, who had unique access to the King over the course of several years, and to whom some believe the King showed his true colours,[238] Abdullah called the tribal leaders "old dinosaurs" and the secret service they dominated "problematic".[239] According to the same interview, he critiqued the tribal way of doing politics: "It's all about 'I'll vote for this guy because I'm in his tribe.' [but] I want this guy to develop a program that at least people will begin to understand." This difficult relation is also something that was emphasized often in the interviews with Jordanian political actors for this project.[240]

The Islamists, of whom most are represented through the Muslim Brotherhood, seemed to have a somewhat similar relation with King Abdullah. Even though their presence in state institutions such as the government, senate, secret service and the army was limited, they were an important voice in Jordanian politics. They held that power mostly because they were highly organized and because of their considerable popularity.[241] The Islamists were very active in Jordanian society. They ran the only well-organized political party in Jordan, called the Islamic Action Front. They dominated organizations such as the Jordanian trade unions and student unions, and ran relief organizations, such as hospitals.[242] Also, they operated many Islamic NGOs, such as Al-Afaf, an organization that promoted marriage and family life.[243] Even though these Islamic civil society organizations were not allowed to be politically active, some did have a political agenda. Often, the organizations promoted Arab-Islamic norms and explicitly combatted what they considered "the intrusion of Western values and cultural codes."[244] These organizations were often relatively strong financially, as they received donations from private individuals and businesses throughout Jordan.[245] Consequently, the Hashemite regime traditionally played cat and mouse with the organization, sometimes giving them space and freedom to grow, and at other times repressing them.

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236 IDEA & ANND, Building Democracy in Jordan: Women's political participation, Political party life and Democratic elections, 2005.
237 Eilon & Alon, 2007; Lynch, 1999; Ryan, 2004, 2009, 2018
238 See, for instance, David D. Kirkpatrick, "Jordan's King finds fault with everyone concerned", *The New York Times*, March 19, 2013.
239 Jeffrey Goldberg, "The modern King in the Arab Spring", *The Atlantic*, April 2013
240 Interview 25 (Political actor), interview by Violet Benneker, Amman 2017; Interview 20 (Political actor), interview by Violet Benneker, Amman 2017; Interview 17 (Political actor), interview by Violet Benneker, Amman 2017; Interview 30 (Political actor), interview by Violet Benneker, Amman, 2017; Interview 05 (Political actor), interview by Violet Benneker, Amman 2017.
241 Harmsen, 2008
242 Harmsen 2008
243 Wiktorowicz & Farouki, 2000
244 Wiktorowicz & Farouki, 2000
245 Interview 26 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017

Though the Islamists were a force to be reckoned with in Jordanian politics, the King personally seemed to have no warm feelings towards the Brotherhood that organized and represented them. In the same interview in which the King called the tribal leaders "old dinosaurs", he described the Brotherhood as "a Masonic cult". He stated he considered it "his job [...] to point out that the Brotherhood is run by wolves in sheep's clothing and wants to impose its retrograde vision of society."[246]

Salafist organizations did not have as many supporters within Jordanian society as the Brotherhood, yet in the Jordanian context in which practically all Muslims were Sunni, they could not be ignored. On the whole, Sunnis often considered Salafism as just a very pious current within the same Sunni Islam.[247] This might explain why the Salafi current was already flourishing in Jordan by the end of the twentieth century. As Salafist expert Joas Wagemakers concludes, "one can safely say that Salafism in Jordan matters."[248]

Some of those Salafi organizations became actively involved in Jihadi-Salafism, the branch within Salafism that supports the use of violence to overthrow apostate regimes. Jordanian Salafists played a significant role in the development of that movement. Jordan is even described by some as "the intellectual reservoir for Jihadist Salafist ideology", as significant thinkers and advocates of the movement were from Jordan.[249] The Jordanian Shaykh Abdullah Azzam was Osama Bin Laden's mentor in Afghanistan.[250] Salafi Muhammad Nasi al-Din Al-Albani (1914-1999), "perhaps the greatest and most influential twentieth century scholar of the traditions of the Prophet Mohammad,"[251] lived the final two decades of his life in Jordan. Two Salafi scholars who are considered the main influential thinkers of this century were also Jordanian: Abu Qatada al-Falistini and Abu Muhammad al-Maqdisi, the latter being described as "the godfather of the Jihadi-Salafi movement".[252] Moreover, in addition to being a frontrunner in developing and spreading Jihadist thought, Jordanian Jihadist-Salafists also played an important role in attacking and resisting the US military efforts in the region after 9/11. The most important of those is Al-Zarqawi, named after the Jordanian city he was from, called Zarqa. He organized and led the Jihadist resistance against the US in Iraq, and would later be considered the founding father of Islamic State.[253]

King Abdullah himself was rather clear on his thoughts on Jihadi-Salafist groups, considering them an enemy that needs defeating ideologically: "I am a military man by training, but I

246 Jeffrey Goldberg, "The modern King in the Arab Spring", *The Atlantic*, April 2013"
247 Wagemakers, 2016:71. In addition, "Salaf, also often referred to with the honorific expression of 'al-salaf al-ṣāliḥ' are considered to be the first three generations of Muslims, which are the generation of the Prophet Muhammad and his companions, their successors, and the successors of the successors". Interview 12 (Expert on religion), interviews by Violet Benneker, Amman 2017, online 2021
248 Wagemakers 2016:32-71
249 Al-Shalabi 2017:146; Wagemakers, 2016:32
250 Abu Rumman & Shteiwi, 2018:22
251 Wagemakers, 2016
252 Wagemakers, 2016:279-294
253 Wagemakers, 2016

know from experience that no war on terror will neutralize this enemy. We have to convince people of the bankruptcy of the takfiris' ideology and to defeat them in the battlefield of the minds of young Muslim men and women."[254]

In addition to the different Islamic groups, Jordan is also home to Christian communities. Some of those are part of the Jordanian tribal community, as historically both Muslim and Christian tribes are present in Jordan. The constitution provided for their freedom to worship in the Muslim majority country: "all forms of worship and religious rites in accordance with the customs observed in the Kingdom, unless such is inconsistent with public order or morality."[255] Also, in practice, the government did not interfere in the worship of the recognized Christian communities.[256] Christians were also granted political power, first, through the election law that made sure the Christian communities were overrepresented in parliament. They made up about 6% of Jordanian society, but consistently held 9 seats in parliament (11%) through a Christian quota. On the whole, the Christian communities were also doing well in economic terms. Yet, King Abdullah's vulnerability to them was nowhere near as considerable as compared to the communities discussed above. Nonetheless, it seems that the presence of Christian minorities was considered a natural part of Jordan's make up in the King's eyes.[257]

Another domestic community that played an increasingly significant role in Jordanian politics under the new King were the liberals. Even though they did not have the numbers, the degree of organization, nor the popular support of communities such as the Islamists, they did have a special place in Jordanian decision-making. This was mostly due to the fact that they seemed to share their liberal orientation with the Hashemite King. In the first years of Abdullah's rule, they were introduced to Jordanian politics as "the new guard", in contrast with the "old dinosaurs".[258] Consequently, they filled more positions in government than one would expect on the basis of their societal support: "Government definitely is less conservative than parliament, and this is not a coincidence. We have a palace that is even more liberal than anybody else. A government that is more liberal than the parliament. And the parliament is more liberal than the people."[259]

An important identity that cut through all these groups – or that was used as a political tool to do so – is the Palestinian. Jordan had taken in such a considerable share of Palestinian refugees that they made up a very large part of the Jordanian population. Precisely how big

254 Abdullah II (King of Jordan), 2012:357-358.
255 Annual Report on International Religious Freedom for 1999: Jordan, US Department of State, 9 September 1999
256 Annual Report on International Religious Freedom for 1999: Jordan, US Department of State, 9 September 1999
257 Jeffrey Goldberg, "The modern King in the Arab Spring", *The Atlantic*, April 2013
258 Interview 59, (Political actor), interview by Violet Benneker, Amman 2017; Milton-Edwards & Hinchcliff, 2009:9
259 Interview 17 (Political actor), interview by Violet Benneker, Amman 2017

that part was remains unclear, because the government did not publish the official census numbers. However, there are reliable sources that estimated that the Palestinians made up over 50% of the population in recent years.[260] Despite their considerable presence, the Palestinians were no longer represented as one community or movement. In the 1950s and 1960s, the Palestine Liberation Organization (PLO) and other resistance movements found safe refuge in Jordan. Yet, by the end of the 1960s, they had grown into a heavily armed state within the Jordanian state. The late King Hussein saw them as a significant threat to Hashemite rule.[261] In 1970, he had his army confront the Palestinian fighters and subsequently crushed the PLO. By 1971, the regime closed down the last two remaining PLO offices in Amman, and had expelled the whole Palestinian leadership and organization from Jordan within a year.[262]

Since then, many Palestinians have become politically active through the Jordanian Muslim Brotherhood instead. However, it was not a Palestinian-only organization, as the Brotherhood was also joined by members of tribes. In addition, while most Palestinians are Sunni Muslim, some are found among other communities in Jordanian society as well, including the liberals and the Christians.[263] The only communities they are not part of are the tribes. Even more so, a main demarcation line running through Jordanian society is the one dividing the 'East Bank tribes' and the 'West Bank Palestinians'. In Jordan, it was common to refer to these groups as Jordanian-Jordanians and Palestinian-Jordanians, or East-Bankers and West-Bankers.

Norm specificity of domestic communities

At the start of 1999, there were no domestic laws that directly prohibited women's political participation, and women had had the right to vote and to be elected since 1974. However, the first (and for little less than a decade the only) woman was elected to parliament on a Christian quota seat in 1993. According to journalist and gender expert Rana Husseini, it was "widespread patriarchal attitudes and practices" that routinely prevented women from taking full advantage of their legal rights, also when it came to political participation: "Most families expect women to focus more on their household and children than on civic affairs."[264]

In particular the norm regarding women's obedience to their family was a major impediment to women's political participation. This was a highly specified norm, and it was both socially widespread and codified in domestic laws. It meant that men were the appointed guardians of their wives and their unmarried female family members. Consequently,

260 Minorities at Risk, *Assessment for Palestinians in Jordan*, https://web.archive.org/web/20160101101403/http://www.cidcm.umd.edu/mar/assessment.asp?groupId=66302 Last accessed 23 June 2018; Ryan, 2018:100
261 Milton-Edwards & Hinchcliff, 2009:41
262 Milton-Edwards & Hinchcliff, 2009:44
263 Minorities at Risk, *Assessment for Palestinians in Jordan*, https://web.archive.org/web/20160101101403/http://www.cidcm.umd.edu/mar/assessment.asp?groupId=66302 Last accessed 23 June 2018
264 Husseini, 2010:7, 21

the choices that women made regarding political participation all first needed to be approved by their husbands or male family members. The extent to which men blocked or supported women's initiative regarding political participation varied widely from one family to another. However, the norm that women should obey their husbands or male relatives was interpreted by conservative families as a husband's right to confine a woman to the home. Such conservative families often felt that the calls for equality and women's independence were a direct threat and led to the destruction of the family as the central unit in society. In some families, women who violated these social norms, and acted without their husbands' approval, could be punished: "Gender-based violence remains a serious concern, and women may be severely beaten or even murdered if they disobey their male family members or commit an act deemed dishonourable".[265]

When it comes to social norms related to religious freedom, Christian minorities historically had a relatively good position in Jordanian society. Based on the idea of the "mosaic" of different religions living in peace with the Sunni majority, Christians were able to practice their faith, and had their own court system for matters of personal status.[266] Yet, other parts of religious freedom as captured in ICCPR's Article 18 were highly specified taboos within Jordanian society. Specifically, the freedom to become an atheist or convert from Islam to another religion was such a strong taboo that it was hardly ever discussed publicly. Apostasy and conversion from Islam to another religion were not only illegal under domestic law, but also carried social punishment.[267] There were very few individuals who openly converted from Islam to another religion or who openly became atheists. Some of the individuals who did publicly convert had to flee the country due to death threats by family members.[268]

4.7 Two time periods of changing conditions for dialogue

The above describes vulnerabilities and norms at the beginning of King Abdullah's rule that started in 1999. Since then, there have been two focal points when vulnerabilities intensified and some norms started to change.

9/11 and the US invasion of Iraq

The first point was 9/11 and its aftermath of the US invasions in the region. By 9/11, vulnerability to the Western-oriented international community had already further increased because of new trade deals made by King Abdullah, such as the free trade agreements with the United States and the EU.[269] Jordan's vulnerability further increased with the anticipated US' invasion in neighbouring Iraq. As soon as the Jordanian government saw

265 Husseini, 2010:2
266 Gutkowski, 2016:216
267 Sidlo, 2016
268 Interview 38 (Expert on religion), interview by Violet Benneker, Amman 2017; Sidlo, 2016
269 Milton-Edwards & Hinchcliffe 2009:117

the plans for the US invasion taking shape, it became determined to avoid a repeat of the national trauma of the first Gulf War. Back then, Jordan experienced immediate economic breakdown as punishment for not siding clearly with the US.[270] "We paid a heavy price at that time, economic sanctions by the Gulf States, and bad relationships with the US. This time, the consequences could be even worse." [271] It was experienced as a period in which Jordan clearly had to demonstrate which side it was on, and President Bush's comment that states were either with or against him was taken very seriously by the Jordanian government.[272] Soon, reports started to come in of Jordan's practical assistance to the American invasion, including sharing of military intelligence, facilitating training of American forces on Jordanian soil, and the use of the capital Amman as a rest and recuperation base for US personnel on leave. By 2004, Jordan was one of the top recipients of US aid.[273]

In addition to this increased vulnerability, this period was also characterized by an increase in norm monitoring for both women's rights and religious freedom. Alongside the usual monitoring by the UN bodies[274] and the annual US Department of State Human Rights Report,[275] the US became more closely involved in women's rights monitoring in the aftermath of 9/11. This is demonstrated especially by the Bush administration's Greater Middle East Initiative, the plans for which were leaked in February 2004. The Initiative was meant to become the new Helsinki Process for the Muslim world and strongly criticized the Muslim states for their alleged lack of progress in reform.[276] Women's rights were one of the three central themes the Initiative addressed.[277] According to one former minister, the Initiative was not taken lightly: "I remember I was in a meeting in Cairo for ministers of foreign affairs. I was there as foreign minister for Jordan at the time. It was then when the US leaked their plans for the Greater Middle East Initiative. We took that seriously, because Bush had bombed Iraq."[278]

As with women's rights, religion and religious freedom also became much more closely monitored after 9/11 in addition to the usual monitoring by the human rights institutions.[279]

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270 Ryan, 2004:46

271 Interview Dr. Oraib Rantawi (Member of Jordan First Committee, Director of Al-Quds Center for Political Studies), interview by Violet Benneker, Amman 2017

272 Interview Dr. Oraib Rantawi (Member of Jordan First Committee, Director of Al-Quds Center for Political Studies), interview by Violet Benneker, Amman 2017

273 Milton-Edwards & Hinchcliffe 2009:121; Woods, 2008

274 The CEDAW Committee is the most constant monitor of Jordan's compliance. Over a period of 18 years (1999-2017), Jordan submitted 4 country reports, in 1999, 2006, 2010, and 2015. Jordan also submitted a report for the UN's Universal Periodic Review (UPR) in 2009, in which its women's rights record was also evaluated.

275 U.S. Department of State, Human Rights Reports: Jordan, all years 1999 to 2017

276 Carnegie Endowment, The Greater Middle Eastern Initiative: Off to a false start, March 2004

277 U.S., Greater Middle Eastern Partnership (leaked draft), February 2004

278 Interviews with Dr. Marwan Muasher (Former Minister, President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018

279 The UN Human Rights Committee monitors the implementation of the ICCPR. In the time period studied, Jordan submitted two country reports - one in 2009 and one in 2016. The Universal Periodic Review discusses religious freedom as well, and Jordan submitted its UPR report in 2009. In addition to these human rights committees, the UN Special Rapporteur on Freedom of Religion or Belief visited Jordan in 2008 and 2013. The US monitors religious freedom in a separate annual US Department of State International Religious Freedom Report.

The US, in its 'War on Terror', wanted its allies in the region to explicitly denounce religious extremism, and call for inclusion and acceptance of other religions. However, the monitoring did not focus on religious freedom for all. The US demanded and supported the active repression of some Salafists, and Jordan would become an important ally in the US' extraordinary rendition program in the region. It aided with secretly transferring, detaining, interrogating and torturing suspects.[280]

The Arab-Islamic response

While Jordan's vulnerability to the Western-oriented community increased, and monitoring of women's rights and religious freedom intensified, so did vulnerability to other communities, especially to the Arab-Islamic community. The US invasion was seen by some as a clash of civilizations between Islam and Christianity, and this discourse pushed Arab leaders to clearly show which side of the clash they stood on.[281] However, many believed King Abdullah to be uncritically supportive of the Americans. His perceived support of what was seen as a fundamental cultural clash, or a neo-colonialist attempt by the US to dominate the region, severely weakened Jordan's reputation and standing within the Arab-Islamic community.[282]

In addition, the normative mismatch with CEDAW became intensely debated and subsequently further specified within the Arab-Islamic community as a response to the US interference. Many felt that a foreign cultural model was imposed on them; one that did not suit Arab-Islamic societies at all. Dr. Sani Zebian, an author and opinion writer for Al Jazeera, wrote that "the US term for the success of such reform is that Arab and Muslims were to forget what they have in common, moreover, also to forget Islam and its revered values. … It is evident that the US project is rejected, since it does not recognise the true structure of the Muslim social order nor its identity. As a result, I think that the common people in the Middle East refuse this project more than the political elite."[283]

Women's rights quickly became a symbol of what was wrong with the Western interference; "The American reform means to disturb the position of each Arab and Muslim country through forced development without considering its … social identity and culture, such as the woman's situation in [this] culture or attitude towards mixing between the two sexes."[284] Moreover, the American attempts at women's rights reform in the region were not perceived as a genuine attempt to improve the lives of the women on the ground, especially because of its military campaign in Iraq that went on at the same time: "[In Iraq], women were everywhere, you know. So, don't tell us you're liberating the Iraqi women.

280 Amnesty International, 'Your confessions are ready to sign' 2006
281 Kayaogly, 2012; al-Shalabi & Alrajehi 2011; Gutkowski, 2016:208; Wiktoriwicz & Taji-Farouki, 2000
282 Milton-Edwards & Hinchcliffe 2009:120
283 "US reform threatens Arab identity" Al Jazeera, May 20, 2004
284 US reform threatens Arab identity' Al Jazeera, 20 May 2004

That is just bull shit. And any way, you don't liberate by bombing people."[285]

The Arab-Islamic international community responded by, first, presenting its own reform plan, and second, by updating the Arab Human Rights Charter. The first reform plan was presented at the Arab Summit of May 2004. The plan did mention women, but it intentionally "couched language on women's empowerment in diplomatic terms in order to win the acceptance of all Arab countries."[286] The plan's stated aim was: "Pursuing the advancement of women in Arab society and buttressing their rights and social position to foster their contribution to development through their active participation in the different political, economic, social, and cultural spheres."[287]

The Arab leaders also agreed on the updating of the Arab Charter. The Charter now formally acknowledged most human rights treaties, but not the CEDAW; "reaffirming the principles of the Charter of the United Nations, the Universal Declaration of Human Rights and the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and having regard to the Cairo Declaration on Human Rights in Islam."[288] Women's rights were covered by the Cairo Declaration and Article 3.3 which states: "Men and women are equal in respect of human dignity, rights and obligations within the framework of the positive discrimination established in favor of women by the Islamic Sharia, other divine laws and by applicable laws and legal instruments." This version of the Arab Charter would later be declared incompatible with international standards for women's rights by UN High Commissioner for Human Rights, Louise Harbour.[289] As Arab-Islamic norms on the role of women in society became further specified and formalized in a new Arab treaty, the space to negotiate over, or find consensus between, the different norms decreased.

Regarding international monitoring of religious freedom, the US 'War on Terror' was perceived as an aggressive attack on Islam and Muslims within the Arab-Islamic international community;[290] "People are just so fed up. They think that the West, that in their minds still represents Christianity, is oppressing Arabs [meaning] Muslims, who still represent the Islamic world."[291] Some considered the War on Terror a holy war of Christians against Islam, especially after Bush's statement on 17 September 2001 that "This crusade is going to take a while".[292]

285 Interview 71 (Expert on women's rights), interview by Violet Benneker, Amman 2017
286 Muasher, 2008:242
287 Muasher, 2008:243
288 League of Arab States, Arab Charter on Human Rights, May 22, 2004,
289 Haviv Rettig Gur, "'Anti-Zionist' Arab Charter inconsistent with UN norms", *The Jerusalem Post*, February 1, 2008
290 Al-Janhani 2007:14; Kayaogly, 2012; al-Shalabi and Alrajehi 2011; Gutkowski, 2016:208; Wiktoriwicz & Taji-Farouki, 2000
291 Interview 12 (Expert on religion), interviews by Violet Benneker, Amman 2017
292 Interview 12 (Expert on religion), interviews by Violet Benneker, Amman 2017; Kayaogly, 2012; al-Shalabi and Alrajehi 2011; Gutkowski, 2016:208; Wagemakers, 2016: 127

By 2004, the updated Arab Charter on Human Rights read "Everyone has the right to freedom of thought, conscience and religion and no restrictions may be imposed on the exercise of such freedoms except as provided for by law".[293] According to some, this contradicts ICCPR Article 18, as it allows for limiting freedom of thought, conscience and religion if provided for by law. Though ICCPR Article 18 also refers to limitations by law, it does so for the manifestation of these freedoms only, which is bound "to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others".[294]

Domestic communities

The outrage within the Arab-Islamic community was shared by most Jordanians, as they were strongly against Western interference in the region and in their country. Domestic vulnerability had increased slightly before the US invasion, as the regime was struggling with the aftermath of the collapse of the Oslo accords, and the ongoing second Intifada.[295] As a considerable part of the population is of Palestinian descent, the Intifada and Israeli re-occupation of Palestinian territory caused much unrest in Jordan – especially because Jordan is one of the few countries in the Arab world that has a peace agreement with Israel.[296] The US invasion in the region and Jordanian alignment with the Western powers only further increased the domestic unrest. A large majority of Jordanians were rooting for the Iraqis and Saddam Hussein, and they were furious about the US plans for toppling the Iraqi regime and Jordanian support for it.[297] Consequently, the events in Iraq, Israel and Palestine became triggers for an outburst of social protest in Jordan, showing the government's volatile bond with its citizens, and their strong links to events outside Jordan's borders.[298]

The King responded by suspending parliament, as he expected that the Islamists would gain more power and call for the rejection of the Jordanian-Israeli peace agreement in the upcoming elections of November 2001.[299] Going without parliament for over two years enhanced the King's executive powers. Effectively but temporarily decreasing his domestic vulnerability despite the protests, this created space in which the King could implement new legislation without formally seeking parliament's approval first.

The Arab Spring and its aftermath

The second time point starts with the Arab Spring at the end of 2010. Though Jordan's relation with the Western-oriented international community largely remained the same,

293 http://hrlibrary.umn.edu/instree/loas2005.html?msource=UNWDEC19001&tr=y&auid=3337655 Last accessed April 16, 2021
294 Rishmawi, 2010:171-172
295 International Crisis Group, The Challenge of Political Reform: Jordanian democratization and Regional Instability, October 8, 2003; Gutkowski, 2015:218
296 Interview 55, (Political actor), interview by Violet Benneker, Amman 2017, Gutkowski, 2015:218
297 Interview 55, (Political actor), interview by Violet Benneker, Amman 2017
298 International Crisis Group '*The Challenge of Political Reform'* 2003.
299 Freedom House, Freedom in the World, Jordan, 2002.

relations with the Arab-Islamic and domestic communities changed drastically.

Western-oriented international community

During and after the Arab Spring, Jordan's traditional role as US ally and launch pad for its military actions in the region continued, yet in a different form than after 9/11. The Obama administration was much more reluctant to get American boots on the ground in the region and in Syria specifically. Even after the Assad regime had crossed the red line of chemical attacks, the US preferred a negotiated deal to remove most chemical weapons over military intervention.[300] The US did maintain its presence in Jordan, though, and strengthened Jordan's border defences to protect it against its neighbours' unrest. Nonetheless, Jordan's alignment with the US was as politically problematic as it was after 9/11. Domestic groups were quick to point out when they believed Jordan's choices had brought it much too close to Western powers.[301]

Though US-Jordan relations largely remained the same, the US intensified monitoring of women's rights did significantly decrease in the aftermath of the Arab Spring. According to a leading CEDAW entrepreneur in Jordan, there was hardly any international pressure or attention on women's rights anymore, and most Western donor money was now focused on refugees; "We keep talking about refugees and are not talking about women's rights anymore. And I think the [Western-oriented] international community is accomplice in our lack of progress. They don't want to deal with the refugee issue, so they give Jordan praise and everything, so they don't have to deal with them."[302] This is confirmed by recent academic research as well, as it states that "Jordan has used its refugee policies as leverage in international negotiations to lobby for increased access to aid, and threatened to retract protections and services if it is not delivered."[303] According to an anti-CEDAW norm entrepreneur, "it has calmed down now. Because now things are different, and many other things are happening in Jordan."[304]

The intensified monitoring of religion and religious freedom from the US also declined under the new president, as he seemed less eager to openly continue the 'War on Terror'. Instead, he used secret drone attacks in the region, targeting alleged extremist Islamists.[305]

Arab-Islamic community

The Arab Spring and its aftermath demonstrated Jordan's vulnerability to countries within the Arab-Islamic community. The Spring had brought down an ally in Egypt's Mubarak,

300 Ryan, 2018:186
301 Ryan, 2018:186
302 Interview 68 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017
303 Kelberer, 2017
304 Interview 26 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017
305 Amnesty International, https://www.amnestyusa.org/the-obama-bush-doctrine/ Last accessed April 16 2021

and put a key domestic rival, the Muslim Brotherhood, in power – if only temporarily.[306] The Jordanian decision-makers worried about the possibility of an Islamist ascendancy in Tunisia, Libya, and Syria – if the Assad regime were to be ousted - and the Jordanian popular support for these types of state.[307] The eventual establishment of the so-called Islamic State created a direct security threat to the Jordanian state, for one because some Jihadi-Salafists advocated that Jordan become part of the newly-founded Islamic State.[308] In addition, the rise of Islamic State in neighbouring countries also weakened Jordan's economy by stifling main trade routes and 20% of its exports.[309] The massive influx of refugees put a further strain on the crippled economy.[310]

In response, the Jordanian King tried to avoid antagonizing the regimes at its borders, such as the Syrian regime of Al-Assad, while at the same time supporting more powerful regimes in the region, such as that of Saudi Arabia. For instance, there are credible claims that Saudi Arabia and other Gulf Cooperation Council (GCC) countries were supporting the Syrian rebels, and sending them arms via Jordan in secret.[311] That support helped Jordan make up for its trade losses. In 2011, the GCC had already promised Jordan 5 billion US dollars to help weather the domestic Spring storm.[312] In 2014, the GCC sought to include new members who shared "the political and cultural values of the GCC", and invited the additional two Arab monarchies, Jordan and Morocco, to join its ranks.[313] By 2015, exports to Saudi Arabia had reached an all-time high of 1 billion US dollars.[314]

Both during and after the Arab Spring, religion and religious freedom within Islam remained a central focal point within the Arab-Islamic community. This was influenced first by the rise to power of the Muslim Brotherhood in Egypt, and later by the establishing of the Islamic State in Iraq and Syria. These events opened up a fundamental debate as to what, exactly, an Islamic state should look like, and relatedly, what freedoms other religions should have in such a state. [315] This debate on religion and religious freedom with the Arab-Islamic community further decreased the King's space to create consensus on religion-related topics.

Domestic communities

The Arab Spring increased the regime's domestic vulnerability considerably more than 9/11's direct aftermath, because of the broad popular support for the protests and the examples of ousted regimes in the region. The protesters were a rare combination of

306 Ryan, 2004:179
307 Ryan, 2018:183; Wagemakers, 2016
308 Wagemakers, 2016
309 Ryan, 2018:181
310 Ryan, 2018:181
311 Ryan, 2018:185
312 "Unstable neighbours and bad policy are just two of Jordan's problems", *The Economist*, April 28, 2018
313 Dr. Saud al Tamamy, "GCC Membership expansion: possibilities and obstacles", *Aljazeera*, March 31, 2015
314 "Unstable neighbours and bad policy are just two of Jordan's problems", *The Economist*, April 28, 2018
315 Wagemakers 2016

youth, (Palestinian) leftists, and members of the Muslim Brotherhood. Even the usually loyal supporters of the regime did not remain quiet. For instance, a group of influential tribesmen from the south published a letter accusing Queen Rania of corruption.[316] Criticism of the royal family had never been so open before under King Abdullah. Even though only a minority was calling for the full abolition of the royal family – most demanded a curbing of their powers, and all the different groups wanted very different things, King Abdullah was very concerned about the survival of the Hashemite throne.[317]

The rise of Islamic State also increased domestic vulnerability, as it gained popular support in Jordan as well. For instance, in 2014, Jihadi-Salafists chased the police out of Ma'an, a town in the south that once was considered a stronghold for Hashemite support. They pledged allegiance to ISIS's leader, Abu Bakr al-Baghdadi, and plastered the mosque with pictures of Jordanian jihadists killed in Syria. Allegedly, Ma'an's youth shredded their Jordanian passports, said "death to the King" and chanted that the caliphate was coming to Jordan.[318] These developments led to such an extent of anxiety among the Christian minorities that some started to leave Jordan.[319]

These developments went hand in hand with increased discussions on religion and the meaning of religious freedom, as they did in the rest of the Arab-Islamic community. Especially the freedom to worship and questions of what a truly Islamic state would look like became a much-debated topic in Jordan in this time period.[320] Salafi groups had a significant influence in that debate, and stated that Sharia law should be the basis of such a state, or as Ibn 'Abd al-Khaliq, an influential political Salafist writer, argues: "generally, the Islamic peoples want Islam and the Islamic *sharī'a*", yet they are ruled by governments that enforced or [still] enforce rules and laws that clash with Islam. There's no question that an effort should be made to amend these laws so that they become Islamically legitimate."[321] During the Arab Spring protests, Salafists and other Islamic groups demanded full implementation of Sharia law.[322] In 2013, Islamists in parliament tried and failed to push through a bill to harmonize Jordanian legislation with Sharia.[323] Some Salafists advocated a decrease in religious freedom for Christians. Jihadi-Salafist groups in Jordan believed that 'infidels' should be killed, using a definition which includes Christians as well as Shi'a Muslims.[324]

316 Laurent Zecchini, "Bedouin tribes accuse Jordan's Queen Rania of corruption", *The Guardian*, February 15, 2011
317 Interview 20, (Political actor), interview by Violet Benneker, Amman 2017
318 "Shuddering: The ructions in neighbouring Iraq are making Jordan's rulers edgier than ever", *The Economist*, June 28, 2014
319 Rula Samain, "Christian emigration: mildest in Jordan vis-à-vis the region, but worrying enough", *Jordan Times*, January 8, 2011
320 Wagemakers, 2016
321 Wagemakers, 2016:314
322 Abu Ruman & Shteiwi, 2017:30
323 David Schenker, "Down and out in Amman: The rise and fall of the Jordanian Muslim Brotherhood" *Foreign Affairs*, October 1, 2013
324 Wagemakers, 2016

4.8 Conclusion and specification propositions

Now that the scope conditions and vulnerabilities to other communities in Jordan have been discussed, the propositions for the qualitative studies (P3 to P5) can be further specified for each treaty and the two time periods.

Proposition 3 proposes that state leaders who are vulnerable to the Western-oriented international community, and whose human rights compliance is monitored actively, will start a political dialogue. Together, these scope conditions are necessary and sufficient to trigger the proposed pathway. Consequently, for the CEDAW, we expect there to have been a political dialogue in the period after 9/11, but not during the Arab Spring.

> Proposition 3 (CEDAW). When decision-makers are (i) vulnerable to the human rights community and (ii) the human rights norms are closely monitored, they start a political dialogue to make an increase in compliance possible.
> - 3a (CEDAW). Jordanian decision-makers start a political dialogue to make an increase in range or degree in compliance possible in the direct aftermath of 9/11.
> - 3b (CEDAW). Jordanian decision-makers do not start a political dialogue to make an increase in range or degree in compliance possible during the Arab Spring.

Proposition 4 concerns the use of the consensus-creating strategies once the mechanism is triggered. It expects that the space state leaders have to create consensus on compliance is determined by their vulnerability to other communities and their norms' specificity. For the CEDAW, this means that Jordanian decision-makers had a fair amount of space in the first period, but very little space during the Arab Spring. We would therefore expect them to use the consensus-creating strategies to support a move towards compliance only in the first period and not in the second.

> Proposition 4 (CEDAW). Decision-makers whose vulnerability to other communities is low, when the norms of the communities in question are not very specified, have considerable space to use different strategies to find or create consensus when the communities' norms and human rights are a mismatch. Decision-makers who are very vulnerable to other communities whose norms are highly specified have very limited space to use different strategies to find or create consensus.
> - 4a (CEDAW). Jordanian decision-makers use many different strategies

to find or create consensus during the dialogue to make an increase in the range or degree of compliance possible in the direct aftermath of 9/11.

- 4b (CEDAW). (If dialogue present) Jordanian decision-makers cannot use different strategies to find or create consensus during the dialogue to make an increase in the range or degree of compliance possible during the Arab Spring.

Proposition 5 proposes the outcome that would logically follow from the findings of Proposition 4. For the CEDAW, we would expect an increase in the range or degree of compliance in the first period, while in the second we would not expect an increase.

Proposition 5 (CEDAW). Through political dialogues, decision-makers make an increase in compliance possible and acceptable despite initially mismatching norms. The more space they have to use different strategies, the greater the eventual increase in range or degree of compliance.

- 5a (CEDAW). Jordanian decision-makers make an increase in the range or degree of compliance possible and acceptable in the direct aftermath of 9/11.
- 5b (CEDAW). Jordanian decision-makers do not make an increase in the range or degree of compliance possible and acceptable during the Arab Spring.

The quantitative findings of Chapter 3 indicate that we cannot have similar expectations for the ICCPR, as the analysis suggests a different role for the international scope condition of vulnerability. While for the CEDAW, international vulnerability weakened the effect of domestic norms on compliance, this was not the case for the ICCPR. Moreover, international vulnerability actually seemed to decrease states' compliance. In this chapter, we have also seen how dependency on the Western-oriented international society, and the US specifically, resulted in support for its 'War on Terror'. Consequently, we would expect either no dialogue at all (P3), or if there were to be one, that it would at least be very different compared to the CEDAW (P4), and that it would somehow result in a decrease in compliance (P5). Because of these findings, the ICCPR study will have a more explorative approach. It will focus on investigating if there indeed was a political dialogue, if so, in which ways it was different from the one expected for the CEDAW, and why and how it may have led to a decrease in compliance.

Proposition 3 (ICCPR). When decision-makers are (i) vulnerable to the human rights community and (ii) human rights norms are closely monitored, they

start a political dialogue to make a decision on compliance possible.

- 3a (ICCPR). King Abdullah II of Jordan starts a political dialogue to make a decision on compliance possible in the direct aftermath of 9/11 (?).
- 3b (ICCPR). King Abdullah II of Jordan does not start a political dialogue to make a decision on compliance possible during the Arab Spring (?).

Proposition 4 (ICCPR). Decision-makers whose vulnerability to other communities is low, and when the relevant communities' norms are not very highly specified, have considerable space to use different strategies to find or create consensus when the communities' norms and human rights are a mismatch. Decision-makers who are very vulnerable to other communities whose norms are highly specified have very limited space to use different strategies to find or create consensus.

- 4a (ICCPR). (If dialogue present) King Abdullah II of Jordan could not use different strategies to find or create consensus during the dialogue to make a decision on compliance possible in the direct aftermath of 9/11 (?).
- 4b (ICCPR). (If dialogue present) King Abdullah II of Jordan could not use different strategies to find or create consensus during the dialogue to make an increase in compliance possible during the Arab Spring (?).

Proposition 5 (ICCPR). Through political dialogues, decision-makers make a decision on compliance possible and acceptable despite initially mismatching norms.

- 5a (ICCPR). King Abdullah II of Jordan made a decision on compliance possible and acceptable in the direct aftermath of 9/11 (?).
- 5b (ICCPR). King Abdullah II of Jordan did not make a decision on compliance possible and acceptable during the Arab Spring (?).

Political dialogues about CEDAW compliance in Jordan

5.1 Introduction

This chapter shows how decisions on compliance with CEDAW are part of political dialogues involving different communities at the domestic and the international level. It finds, first, that under the conditions of international vulnerability and human rights norms monitoring, Jordan's main decision-maker starts a political dialogue to make reform possible. When the consensus-creating strategies are used carefully, the dialogue results in an increase in compliance. The chapter also shows that when these conditions change and, particularly, the monitoring by important allies from within the Western-oriented community decreases, the need to start a political dialogue also decreases. Consequently, we see that subsequent political dialogues, if they are started at all, are no longer aimed at making a decision to move towards compliance possible.

In addition, this chapter also demonstrates how backlash effects again human rights can develop. Though not expected by the propositions, this helps us better understand how these effects can develop in response to different stages of the pathway; during the start of the dialogue by selecting participants which are not approved by, or do not include sufficient domestic veto communities; by focusing too much on changing the status quo and less on creating consensus first; and by making decisions on compliance that are not based on built consensus.

5.2 Dialogues to increase compliance 2001-2010

A women's quota in parliament

As discussed in chapter 4, Jordan's vulnerability to the Western-oriented international community further increased after the 9/11 terrorist attacks on the US. Jordan's subsequent alliance and military collaboration with the West was problematic within the Arab-Islamic community, as the invasions in the region were perceived as a clash of civilizations and a new crusade.[325] Moreover, it added fuel to domestic fires started by the second Intifada. Many Jordanians were opposed to their country's alignment with the West, and took to the streets to protest.[326]

Starting a dialogue: 'Jordan First'

In response, King Abdullah started a dialogue that was called 'Jordan First'. In the words of the deputy-president of the Jordan First Committee; "There was the intifada, and 9/11, and the threat of a coming Gulf war, and we knew this was going to be something divisive in the Jordanian population. We didn't want that. … so that's how the Jordan First Initiative

325 Kayaogly, 2012
326 International Crisis Group, The Challenge of Political Reform: Jordanian democratization and Regional Instability, October 8, 2003

was born."[327] One member of the Jordan First Committee, Dr. Oraib Rantawi, recalls a conversation with the prime minister right before the Committee was set up. He said "that we cannot repeat what we did in the 1990s during the First Gulf War. The whole international and regional political scene is totally changed. And we paid a heavy price at that time, economic sanctions by the Gulf States, bad relationship with the US. This time the consequences would maybe be even worse. [...] And the war in Iraq is something... I remember George W. Bush saying you are either with us or against us. But a majority [of the Jordanians supported Saddam Hussein]! There was a gap, a huge gap between the government and the population. Then we said, let us go for a reform initiative."[328]

On 30 October 2002, the King established a committee by royal decree that was to "unite Jordanians in their sense of national belonging, pride in their Arab nation and Islamic religion, in an atmosphere of freedom, democracy, pluralism, tolerance and social justice."[329] After months of deliberation, the Committee proposed several mechanisms to reform government, parliament, the judiciary, political parties, the professional associations, the press, education, and the private sector. The only recommendation that was eventually implemented was the quota for women in parliament.

As the following will highlight, there were several consensus-creating strategies used to make an outcome possible that could not have been achieved without that dialogue; mostly participant selection and side payments. Persuasion and reverberation were used as well, but were mostly ineffective. The paragraphs below also show how these strategies were used in such a way as to make an increase in the degree of compliance with Article 7 possible. At the same time, it also shows how it was not possible for an increase in the range of compliance to be made acceptable, even though an attempt was made. For example, some of the other recommendations made by the CEDAW Committee were discussed, including giving women the right to pass on their nationality to their children, but were soon dropped during the dialogue.

Participant selection

King Abdullah II launched a Committee with 31 members that were carefully chosen. First, the King selected Shaykh Iz al-Din Al-Tamimi to head the Committee. The shaykh was a renowned and respected Islamic figure, who holds much religious legitimacy within Jordanian society.[330] At that point in time, he was Jordan's Chief Islamic Justice, but he held many other high government positions during his career, including grand mufti of Jordan,

327 Interview with Dr. Bassem Awadallah (Former minister, Deputy president of the Jordan First Committee), interview by Violet Benneker, Amman 2017

328 Interview with Dr. Oraib Rantawi, (Member of the Jordan First Committee, Director of Al-Quds Center for Political Studies), interview by Violet Benneker, Amman 2017

329 Abdullah II (King of Jordan). "Letter to Prime Minister Ali Abul Ragheb on the national interest" October 30, 2002

330 Interview 57 (Expert on religion), interviews by Violet Benneker, Amman 2017

minister of religious affairs and senator.

King Abdullah selected Bassem Awadallah as deputy, who was then minister of planning and his right-hand man. Awadallah is a Jordanian of Palestinian descent and shared the new King's liberal economic reform agenda. He would later go on to become director of the Office of His Majesty in 2006 and chief of the Royal Hashemite Court in 2007. In that career, he became known as "the most powerful man in Jordan, after the King".[331] Given this position, he was the de facto leader of the Jordan First Committee and arranged all the discussions and drafting of the Jordan First plan.

During the interviews for this research, Bassem Awadallah explained that in the selection of the rest of the members of the Committee, King Abdullah was very aware of the divides within his society, and the need to focus on a Jordanian identity. Many of the Jordanian factions had loyalties that lay more within the Arab-Islamic community, than with a unique Jordanian identity. Therefore, the leaders of the Committee, together with the King, saw in the Jordan First initiative an opportunity to build consensus on a Jordanian identity all these different voices could relate to.[332]

To make sure that happened, each different faction was represented in the Committee.[333] The media announced that the members "include current and former ministers, senators and deputies. … authorities on Islam and independent Islamists, academics and professionals, members of the business community, Royal Court officials and politicians with a leftist and pan-Arab background."[334] In practice, according to member of the Committee Oraib Rantawi, this meant that "most of the members on the Committee were conservatives. Not that many pro-reform people. Therefore, instead of finishing the job within a couple of weeks, it took much more, fighting each other."[335] There were tensions on drafting a new and representative electoral law, the possibility of building a true constitutional monarchy, press freedom, and women's rights – especially changing the Nationality Law, related to Jordan's reservation on CEDAW Article 9.2. The liberal-minded members wanted to use the fresh wind that was blowing through the new Royal Court to make some serious reforms, including on women's rights. The conservatives hoped to divert it without too much open opposition to their new King.[336]

331 Milton-Edwards & Hinchcliffe, 2009:97
332 Interview with Dr. Bassem Awadallah (Former minister, Deputy president of Jordan First Committee), interview by Violet Benneker, Amman 2017; Francesca Sawalha, "King chairs 'Jordan First' committee meeting", Jordan Times, November 1, 2002.
333 Interview 59, (Political actor), interview by Violet Benneker, Amman 2017
334 Francesca Sawalha, "King chairs 'Jordan First' committee meeting", Jordan Times, November 1, 2002.
335 Interview Dr. Oraib Rantawi (Member of the Jordan First Committee, Director of the Al-Quds Center for Political Studies), interview by Violet Benneker, Amman 2017
336 Interview Dr. Oraib Rantawi (Member of the Jordan First Committee, Director of the Al-Quds Center for Political Studies), interview by Violet Benneker, Amman 2017; Interview 33 (Political actor), Amman 2017, interview by Violet Benneker, Amman 2017

Persuasion

Starting any discussion on women's rights was a guarantee for an intense debate. Persuading the conservative Committee members of the need to reform on women's rights turned out to be a difficult task, especially when it came to granting women the right to pass their nationality on to their children. Most countries in the Arab-Islamic community have placed the same reservation on Article 9.2.[337] Also, the League of Arab States has agreed that no Arab State grants nationality to Palestinians "in order to preserve the Palestinian identity".[338] A new nationality law would threaten that norm, by giving the children from Jordanian women who married Palestinian men Jordanian nationality. But the fact that this specific right was so quickly dismissed during the Committee's deliberations was not necessarily to preserve the Palestinian identity.

Rather, the quick dismissal was because of the strongly held belief among the conservatives that changing this law would damage the so-called 'Jordanian-Jordanian' identity.[339] Many of the conservative tribes did not want to accept Palestinian refugees as a permanent part of Jordanian society, and they believed changing this law would lead to just that. While this law remained in place, Jordanian-Jordanian women were more likely to marry Jordanian-Jordanian men, so their children could have full citizenship rights. Moreover, it would prevent children from mixed marriages from becoming full Jordanian citizens. In addition, conservative norms regarding women also played a role.[340] Indeed, children from a mixed marriage of a Jordanian-Jordanian man and a Palestinian woman do get full Jordanian citizenship. The conservatives' fierce opposition to discussing the topic seems thus to have been based on two motivations; protecting Jordanian-Jordanian identity, and preventing women from passing on their nationality to their children.[341] Especially the latter reason was most often used publicly to defend keeping the Nationality Law in Jordan.[342]

The refusal to consider changing this law, and thus lifting the reservation to Article 9.2, clearly demonstrates the power of the conservative tribes in the dialogue. Most other communities in Jordan did not need to be persuaded, as a change to this specific right was already a match with their norms. Most Palestinian-Jordanians supported a change in this law, as a result of their belief that their children should enjoy equal citizenship. The liberals agreed to it as a result of their belief in Palestinians' and women's equality.[343] Finally, also

337 Algeria, Bahrain, Brunei, Egypt, Iraq, Kuwait, Lebanon, Morocco, Oman, Saudi Arabia, Syria, Tunisia and the United Arab Emirates have all placed a reservation on Article 9.2. https://www.un.org/womenwatch/daw/cedaw/reservations-country.htm (Last accessed 20 February 2018)
338 CEDAW/C/JOR/5 (September 24, 2010)
339 Interview 55, (Political actor), interview by Violet Benneker, Amman 2017
340 Interview 46 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017
341 Interview 17 (Political actor), interview by Violet Benneker, Amman 2017; Interview 55, (Political actor), interview by Violet Benneker, Amman 2017; Interview 21 (International norm entrepreneur), interview by Violet Benneker, Amman 2017
342 Interview 21 (International norm entrepreneur), interview by Violet Benneker, Amman 2017
343 Interview 55, (Political actor), interview by Violet Benneker, Amman 2017; Interview 04 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017

for the influential outsiders of the Committee, the Muslim Brotherhood, changing this law would not have been problematic. Since they consider the Islamic Umma as one big society, it seems likely they would not have protested a change; "Look, religion has no interest in this issue. … In Islam, we are all brothers. Me, and the Moroccans, the Algerians, the Tunisians, the Libyans, the Iraqis, the Syrians, we are all Muslims! It is this nationality law that is limited to the country itself, and every country has its own. It is a shame, sister!"[344]

Moreover, many believe the King himself wanted to change this law, but that he was also limited in what he could do. In fact, Queen Rania planned to announce a change to the law in the same year as the Jordan First Committee, but she had to backtrack under pressure from the conservatives.[345] According to one expert, "I think that the people who can actually make a decision do not feel particularly obliged to conservative politics. But because it is a red line on so many levels, it will never succeed. It is a definite red line. I think it is both a conservative [issue] and linked to the Palestinian issue. Dependent on who you are talking to, one would have more weight than the other. But we are not able to go beyond that red line."[346]

Topic selection

As the discussions within the Jordan First Committee proceeded, it became increasingly clear that the conservatives had a strong position and that they were not so easily persuaded of the need to change any laws on women.[347] However, according to Committee leader Bassem Awadallah, the King was determined to start a process of reform that would give women equal political rights, and a quota proposal could be designed in such a way that it would become acceptable to all.[348]

Domestically, women's political rights were not seen as something in need of change or support. Many believed politics were not a suitable place for women, and a large majority of Jordanian society believed men to be better political leaders.[349] Consequently, many felt women's political participation should not have the government's main attention.[350] At the same time, political rights were also considered more "distant" from people's personal lives.[351] Having women in parliament would not directly threaten the family and the day-to-day lives of Jordanians. And, importantly, the quota seats could be added to the

344 Interview 40 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017
345 Interview 42, (Political actor), interview by Violet Benneker, Amman 2017; "The queen outmatched: Her demographic coup blown away by Jordan's indigenous tribes", *The Economist*, December 5, 2002.
346 Interview 21 (International norm entrepreneur), interview by Violet Benneker, Amman 2017
347 Interview 59, (Political actor), interview by Violet Benneker, Amman 2017
348 Interview with Dr. Bassem Awadallah (Former minister; Deputy president of the Jordan First Committee), interview by Violet Benneker, Amman 2017
349 World Values Survey; Chapter 3 of this manuscript; IDEA & ANND, Building Democracy in Jordan: Women's political participation, Political party life and Democratic elections, 2005
350 Interviews and notes Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018
351 Interview 18 (Political analyst), interview by Violet Benneker, Amman 2017

current number of seats in parliament. In that way, no man would have to give up his seat for a woman.[352] So even if society was not persuaded of the value of women becoming politically active, changes to political rights might be the least controversial change of all women's rights.[353] Moreover, it was already allowed. Women had been granted the right to participate in politics by the late King Hussein decades ago. Furthermore, the idea of a quota was also not new to the Jordanian parliament, as religious minorities always won their seats through quotas.

Importantly, women's political participation was also more acceptable to the influential outsiders of the Committee. Even though, officially, the Brotherhood had stated that it was against a quota system, women's political participation was debated within the party as well.[354] Some believed Islam was unclear on whether it was actually forbidden, and some members in the Brotherhood had recently started to argue in favor of women's political participation. They saw the political roles the Prophet's wives had held as proof that women should be allowed in parliament.[355] There were Brotherhood members – both male and female – who argued it is evident that women's political participation should be allowed, even if only to a certain extent; "being for example president is not allowed in Islam, it is very clear! Because she has a husband, and a husband may interfere. Thereby, in general, she is weak. So to avoid any harming of the country, or the society, we need to be cautious about this. So she can [for example] be governor, but not the main! Not a president."[356] So even though the Brotherhood were not persuaded by CEDAW norms, they might agree to political participation on their own terms, even if only to certain extent.

Reverberation

Attempts at reverberation to persuade the population were extensive, but on the whole not judged as very effective by some involved. The women's rights movement, led by the JNCW under royal patronage, was determined to make sure women would hold seats in parliament. They began a national program of workshops, training sessions and lectures to raise awareness about the importance of female political participation. Parts of that program were funded by the European Union and the British Council.[357] Other Jordanian liberals also tried to influence the debate. Oraib Rantawi hosted a televised talk show while the Jordan First Committee was taking place. In that show, he advocated for women's political

352 Interview 69, (Expert on law) interviews by Violet Benneker, Amman 2017
353 Interview 52, (Political analyst), interview by Violet Benneker, Amman 2017
354 IDEA & ANND, Building Democracy in Jordan: Women's political participation, Political party life and Democratic elections, 2005
355 Interview 51, (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017; Interview 76, (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017
356 Interview 76, (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017; Interview 34 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017; Interview 26 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017.
357 Rana Husseini, "Women's groups to appeal for parliamentary representation quota", *Jordan Times,* January 30, 2002; Rana Husseini, "Arab women rank lowest worldwide in parliamentary presence", *Jordan Times*, March 23, 2002; IDEA & ANND, *Building Democracy in Jordan: Women's political participation, Political party life and Democratic elections*, 2005

participation and a quota. Looking back, he does not believe that this helped significantly in changing the norms of a majority of Jordanians on women's participation in politics. He comments that: "what we are missing is a clear push, clear pressure from society. If that was there, these old conservatives would give in. But there isn't."[358]

Side payments

Bassem Awadallah soon focused his efforts on getting the conservatives to agree on a quota for women in politics. In order to avoid confrontational debates, he organized bilateral meetings where he argued that a quota is the direction that a modern Jordan needed to take. Additionally, he stated clearly that the quota would be a temporary first step. It could eventually lead to equal rights for women being obtained without the need for a quota system.[359] The promise that the quota would be temporary proved crucial; "I am not with the quota, and I told [the King] before. But in the beginning, they are saying to me that perhaps we need it for two terms, for two! Which is eight years. So for that I say, perhaps, but I am not with the quota."[360]

Other trade-offs were also made to further increase support for the quota. While the conservative tribes had significant leverage and could reject several changes in women's rights, they also knew that they "could not keep saying no to everything."[361] The King's idea of establishing a constitutional monarchy through a new electoral law was, in particular, considered a red line, as that would have diminished the tribes' power in parliament. Therefore, the idea of fundamentally reshaping the Electoral Law was given up on in order to increase support for just one small change to the existing Electoral law: the women's quota.[362]

Persuasion

While the conservatives were now reluctantly beginning to accept the idea of a quota, some of the liberals were also still in need of convincing. Women's political participation had become one of the main priorities of the Jordanian liberal elite, but some did not believe a quota was the right course of action or that it would be sufficient. In the Jordanian parliament, quotas were used for minorities. Since women made up half of Jordan's society, they felt a quota was a highly inappropriate measure.[363] However, for them, too, the promise of a temporary quota proved decisive.[364] With the trauma of the 1997 elections in the back of their minds, in which no woman won a seat despite great advocacy efforts,

358 Interview with Dr. Oraib Rantawi (Member of the Jordan First Committee, Director of the Al-Quds Center for Political Studies), interview by Violet Benneker, Amman 2017
359 Interview 59 (Political actor), interview by Violet Benneker, Amman 2017; Interview 33 (Political actor), interview by Violet Benneker, Amman 2017; Interview 25 (Political actor), interview by Violet Benneker, Amman 2017; Interview 55 (Political actor), interview by Violet Benneker, Amman 2017.
360 Interview 25 (Political actor), interview by Violet Benneker, Amman 2017
361 Interview 25 (Political actor), interview by Violet Benneker, Amman 2017
362 Interview 59 (Political actor), interview by Violet Benneker, Amman 2017
363 IDEA & ANND, Building Democracy in Jordan: Women's political participation, Political party life and Democratic elections, 2005
364 Interview 33 (Political actor), interview by Violet Benneker, Amman 2017

they started to believe that a temporary, transitional quota was better than no political participation at all.[365]

Increasing the degree of compliance

After a month and a half of deliberations, the Jordan First Committee presented its recommendations on 18 December 2002. The first recommendation on the Electoral Law did not touch the conservatives' power in parliament. It merely stated that "When enacting election laws, we should strive to guarantee sound representation, equity and the empowerment of all vital powers and competent patriotic personalities to enable them to serve in the House of Parliament." The second recommendation on the Electoral Law was more specific, and shows the consensus created on a quota during the Committee's discussions; "Election laws should observe the goals of political and partisan development and the empowerment of women to elect and be elected and guarantee the actual election of women to Parliament (a women's quota, provided that it is temporary and transitional)." The recommendations to strive for sound representation in election laws, and to review all legislation related to human rights were never implemented. That was different for the recommendation on the quota. By the beginning of January 2003, the government announced the formation of the Women's Parliamentary Quota Committee to turn the recommendation into action. Insiders say that the most important reason for the quota recommendation to be followed up was because "it was clear that the King wanted it".[366]

The appointed Quota Committee was supposed to "work independently from the government, whose role will be limited to facilitation and coordination"[367] on a plan for the quota in parliament. This was experienced differently by some; "[the prime minister] just said, 'I am thinking about 6 seats.' I mean, he had the whole formula in mind."[368] Even so, the conservative and liberal members of the Quota Committee did discuss the number of seats. Women's rights activists demanded a quota of 12, with one quota seat for each electoral district in Jordan. The conservatives countered that the government would never accept that number, and that they should stick to 6. The discussions ended with a recommendation of 8 seats for the quota. Nonetheless, just over a month later the King decreed a quota of 6 seats.

Possibly, the eventual design of the quota was not left to the Quota Committee, since the King was taking considerable risks in complying with CEDAW Article 7. First, even though the tribes had grudgingly accepted an undefined temporary quota, they were not persuaded by it. Most of them still believed women had no place in politics.[369] Considering this group dominated, among other bodies, the powerful secret service, they were a force

365 Interview 11 (Political analyst), interview by Violet Benneker, Amman 2017
366 Interview 55 (Political actor), interview by Violet Benneker, Amman 2017
367 'Formation of 5 committees to implement 'Jordan First' announced', *Jordan Times Archive*, 9 January 2003.
368 Interview 35 (Political actor), interview by Violet Benneker, Amman 2017
369 Interview 33 (Political actor), interview by Violet Benneker, Amman 2017

to be reckoned with. The quota therefore needed to be calculated in a way they could agree with. Secondly, neither the King nor the tribes wanted all seats taken up by women from the political faction of the Muslim Brotherhood, the Islamic Action Front. Limiting the presence of the Muslim Brotherhood had been a long-time priority of the Hashemite monarchy, and the existing Electoral Law was designed to keep that presence as minimal as possible.[370] Any changes to that law should at least not change that particular feature.

The quota that King Abdullah decreed on 10 February 2003 controlled both risks. First, a number of 6 in a parliament of 110 is small, and more importantly, the seats were added to the existing parliamentary seats. This way, the presence of women was kept to a negligible minimum (a little over 5%), and, importantly, no man needed to give up his seat for a woman.[371] Moreover, the distribution of the seats was calculated in such a way that the chances of a Brotherhood member winning seats were low.[372] Rather, the distribution key made a seat for the smaller tribes very likely. Rather than being only a women's quota, it can therefore also be considered a quota for small tribes.[373] Having the decision on the quota legitimized through an 'independent' quota committee containing both liberals and conservatives, the King made sure that the decision would cause as little social unrest as possible.[374]

The quota was implemented for the first time in the elections of 17 June 2003. Despite the fact that 54 women ran, none gained enough votes to win a regular seat in parliament. In total, all female candidates together collected only 36,000 votes. Jordanian sociologist Sabri Rheibat commented at the time that "people still appear unsure women can make it in the political world. Many still carry deeply seated beliefs and perceptions about a woman's ability in the Lower House."[375]

The six women who did make it to parliament all did so on the quota system. Five seats were won by women from smaller tribes, all with fewer than 2000 votes. One won her place in the national parliament with as few as 365 votes. Most of these women had little political experience and soon gained a reputation for being ineffective politicians.[376] The exception was Dr. Hayat al-Musaymi, a member of the Brotherhood, who won her seat on 7133 votes in a particularly tough district.[377]

370 Interview 20 (Political actor), interview by Violet Benneker, Amman 2017
371 Interview 35 (Political actor), interview by Violet Benneker, Amman 2017
372 The percentages of the votes won per electoral district are used to distribute the quota seats rather than the total number of votes. Consequently, it is highly unlikely that women from highly populated, urban districts (where the Brotherhood is most active) will receive the highest percentage.
373 Interview 46 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017
374 Interview 35 (Political actor), interview by Violet Benneker, Amman 2017
375 Rana Husseini, "Outcome of women's parliamentary progress remains contentious: Quota system leaves bad taste in mouth of capital candidates", *Jordan Times*, July 15, 2003
376 Interview 25 (Political actor), interview by Violet Benneker; Interview 13 (International CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017; Interview 73 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017.
377 'Building Democracy in Jordan', IDEA, 2005, p. 38

Acceptance of and dissatisfaction with the quota

The acceptance of the quota during the Jordan First Committee, the participation of the tribes and the Muslim Brotherhood in the contest over the women's seats, and the lack of protest against it, can be taken as indicators that the quota was at least reluctantly accepted by the communities. However, the limited number of votes for female candidates indicates that the communities might not have been fully persuaded about women's political participation in parliament.

Although some CEDAW entrepreneurs were satisfied that at least there now were women in parliament, many activists remained critical. They were disappointed that the distribution key of the quota meant the seats would never have gone to them, even if they had won more votes. Nadia Hashem Aloul, who had run as a candidate, commented "It was impossible for us to win via the quota because the structure was unfair to begin with."[378] Rana Husseini, a journalist covering women's rights issues in the Jordan Times, commented that the quota system left "a bad taste in the mouth of capital candidates".[379] The JNCW, the women's rights organization under royal patronage, was dissatisfied as well, but hardly mentioned the distribution key. In public, they contested the limited number of seats and called for a larger quota.[380]

The CEDAW Committee took up the JNCW's line. In the following CEDAW review round, Jordan presented its quota system as "an action that is considered to be the first of its kind in Jordan and was adopted in response to the demands of NGOs and the Committee's recommendations for the adoption of special temporary measures to help women accede to decision-making posts."[381] The Committee replied: "While [....] noting the quota of 6 seats for women out of 110 seats in the lower house of Parliament [...] the Committee is concerned about the low level of representation of women in public and political life and in decision-making positions."[382] It then urged the Jordanian government to "institute a significantly higher quota for women".[383]

CEDAW ratification and lifting one of three reservations 2004-2010

By 2004, domestic unrest and protests had decreased, while pressure from the Western-oriented international community had increased. In February that year, the US administration under Bush leaked its Greater Middle East Initiative, which was meant as the new Helsinki Process for the Muslim world.[384] Women's rights were one of the three

378 Rana Husseini, "Outcome of women's parliamentary progress remains contentious: Quota system leaves bad taste in mouth of capital candidates", Jordan Times, July 15, 2003
379 Rana Husseini, "Outcome of women's parliamentary progress remains contentious: Quota system leaves bad taste in mouth of capital candidates", *Jordan Times,* July 15, 2003
380 Rana Husseini, "6 parliamentary seat quota 'not enough' say women activists: Gov't move still regarded by some as a good first step", Jordan Times, February 15, 2003, Jordan Times Paper Archive in Amman
381 CEDAW/C/JOR/3-4 (March 10, 2006)
382 CEDAW/C/JOR/CO/4 (August 10, 2007)
383 CEDAW/C/JOR/CO/4 (August 10, 2007)
384 'The Greater Middle Eastern Initiative: Off to a false start' Carnegie Endowment, March 2004

central themes the Initiative addressed, subsequently increasing the monitoring of women's norms significantly.[385] In the words of Marwan Muasher; "I remember I was in a meeting in Cairo for ministers of foreign affairs. I was there as foreign minister for Jordan at the time. It was then that the US leaked their plans for the Greater Middle East Initiative. We took that seriously, because Bush had bombed Iraq."[386]

Starting a dialogue: 'The National Agenda'

Few believed any Arab government could just implement the US plans for reform in their respective domestic societies. Rather, according to the foreign minister at the time, Muasher, an alternative needed to be found that both the Arab world and the US could accept:[387] "Arabs' failure to act would invite external intervention in Arab affairs and therefore Arabs needed homegrown political reform processes. Developing these, I said, was the only way to fend off outside pressure."[388]

In response, King Abdullah decreed the formation of a new reform committee on 9 February 2005, called the National Agenda Committee. The official aim was to provide the Jordanian government with a ten-year plan that would "build a strong society based on the principles of integrity, supreme values affirmed by our tolerant religion (Sharia law) and our genuine Arab heritage".[389] But while emphasizing the Arab identity in the formation of the Committee, Jordanian decision-makers used several strategies to bring about an outcome that would be in line with the external demands for reform; these strategies included participant selection, side payments, and persuasion.

Participant selection

King Abdullah chose foreign minister Marwan Muasher to head the Committee and become deputy prime minister in charge of domestic reform.[390] Muasher built significant trust and a great network in Washington during his post as ambassador to the US, and later as foreign minister.[391] He strongly believed the dependence on oil and oil-funded aid from Saudi Arabia and the Gulf would soon be over, and considered this one of his main reasons to push for reform in Jordan.[392] In addition, Muasher had proven himself loyal to the Hashemites in the past, and strong enough to withstand societal critique, for example, by taking up the highly controversial position of Jordan's first ever ambassador to Israel in 1995.

385 'Greater Middle Eastern Partnership' February 2004, http://al-bab.com/documents-section/greater-middle-east-partnership
386 Interviews with Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018
387 'The Arab Center', Marwan Muasher, 2008:242
388 'The Arab Center', Marwan Muasher, 2008:239
389 Letter from King Abdullah to Prime Minister Faisal Al-Fayez, 9 February 2005
390 'The Arab Center', Marwan Muasher, 2008:7
391 'The Arab Center', Marwan Muasher, 2008:6-7
392 Interviews with Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018

On the whole, Muasher had gained a reputation for being a reform-minded liberal.[393] American scholar Mark Lynch would later label him "the Reform Czar", and the Jordan Business Magazine declared him "The Architect of Reform".[394] Looking back on that time over a decade later, Muasher says that those titles mostly caused him a lot of trouble in Jordan.[395] Others ponder whether the Committee's struggles could have been avoided if someone with less of a reformist reputation had been appointed as the Committee's president.[396] Some believe Muasher should have refrained from reforming the taboos the political establishment and society were not ready to reform.[397]

Recognizing the strong sentiments against Western-imposed plans which were held in the Arab-Islamic community and the Jordanian communities, it was clear for both King Abdullah and Muasher that the Committee needed to strike a careful balance between conservatives and liberals to make sure it was seen as legitimate by the Jordanians.[398] A total of 27 individuals were selected; eight members of the conservative parliament, some former ministers, senators, representatives of a few Jordanian political parties, a member of the Muslim Brotherhood, and individuals from the private sector, academia, and societal organizations. Five of the 27 members (about 19%) were women. Compared to, for instance, the percentage of women in parliament, this was a considerable share.

Though the Jordanian media praised the Committee's inclusiveness,[399] the team was dominated, relatively speaking, by individuals who were in principle willing to consider reform. While looking back and going through the list of participants during the interviews for this research, Muasher identified 12 out of the 27 members as leaning towards the liberal side. Moreover, the Committee members who represented the more conservative voices of Jordanian society, such as Dr. Abdellateef Arabeiat of the Muslim Brotherhood, were from the less dogmatic end of the spectrum within their organizations. This was also the case for another, Ms. Nawal Elfa'auri, a former member of the Brotherhood. She was one of the first politically active woman in the Jordanian Brotherhood, and a known advocate for women rights as based on Islamic norms.

Backlash effect

The selection of the Committee quickly created a backlash effect. The conservatives labelled the members "the Agendees"[400] and "the neoliberals", who they believed were working

393 `The Arab Center', Marwan Muasher, 2008
394 Arab Reform Bulletin, Carnegie Endowment 'Jordan: Knives out for the National Agenda, November 2005, Mark Lynch.
395 Interviews with Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018
396 Interview 30 (Political actor), interview by Violet Benneker, Amman, 2017
397 Interview 33 (Political actor), interview by Violet Benneker, Amman 2017
398 Interview 30 (Political actor), interview by Violet Benneker, Amman, 2017
399 'National goals require dialogue', Jordan Times Archive, 14 February 2005; National Agenda steering committee forms eight teams to work on different sectors', Jordan Times Archive, 28 March 2005
400 Interview 30 (Political actor), interview by Violet Benneker, Amman, 2017

against Jordan, and set on destroying the country socially, economically, and politically.[401] Moreover, the conservatives claimed that the reform initiative was imposed by the West and harmful to the Arab and Jordanian way of life.[402]

To defend the Committee, both the King and Muasher emphasized that the National Agenda was developed by and for all Jordanians[403], was not imposed by external powers,[404] and would not change the Arab-Islamic Jordanian identity. According to King Abdullah, Jordan could develop "institutions and systems, and [possess] modern methods of progress and appropriate approaches to meet the challenges of the future, while preserving the traditions of the Arab-Islamic Jordanian community and pride in its original heritage."[405]

These efforts were to no avail. The conservative suspicion of the Committee soon grew into all-out opposition. The conservatives were able to mobilize part of the media, and started a campaign against the National Agenda that was experienced by the Committee's president Muasher as "extremely vicious and personal."[406] In order to yield ground to the conservatives who demanded more say, the King decreed the formation of a parallel committee. Some felt there was little discussion on reform in that committee, and that most of the talk was about "waging war" on the National Agenda.[407]

Muasher asked King Abdullah to control the conservative opposition. Subsequently, King Abdullah tried to calm the most vocal conservative opponents from parliament and the senate in a private meeting. He told them that there was no need to worry, and that the Committee was not meant to favor liberals over the conservatives.[408] The conservatives, in return, made a veiled threat. They told King Abdullah that they had always been loyal supporters of the Hashemites, but that they hoped that they could remain loyal supporters in the future.[409]

Persuasion

Despite the resistance from conservatives, the Committee members continued with the assignment given to them by the King. They met regularly to discuss which topics

401 'The Arab Center', Marwan Muasher, 2008:247; Interview 30 (Political actor), interview by Violet Benneker, Amman, 2017

402 Interview 30 (Political actor), interview by Violet Benneker, Amman, 2017; Interviews with Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018

403 'National goals require dialogue', Jordan Times Archive, 14 February 2005

404 'National Agenda to embrace feasible down-to-earth solution for Kingdom's problems', Jordan Times Archive, 23 June 2005; Interviews and notes Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018

405 Translated from Arabic, Speech of King Abdullah, Second session National Assembly 2005

406 'The Arab Center', Marwan Muasher, 2008:248

407 Interview 30 (Political actor), interview by Violet Benneker, Amman, 2017

408 Interviews with Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018

409 Interviews with Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018

needed to be addressed by the Agenda. In the first Committee meetings, the women of the Committee spoke up to persuade the other members to address women's rights in their initiative. In the very first meeting of the Committee on 26 February, one member pointed out the importance of women's participation and their human rights. Another added that because women make up half of Jordanian society, and affect Jordan's economy, "we have to protect women's human rights". This Committee member asserted that "we should get rid of the social heritage that affects badly on women's participation."[410] In the following meeting of 5 March, a third Committee member highlighted a wish to implement women's rights, by explaining the importance of the participation of women and their rights in political and economic development.[411]

In those meetings, Muasher responded by saying that it was indeed important to think about this. At the same time, he did not promise anything tangible at this stage, except to "take it into account when discussing the details of the Agenda."[412] Muasher knew women's rights were going to be a tricky topic – even within his relatively reform-friendly Committee. Muasher expected the conservatives that were in the Committee to put up a fight, in defence of their own beliefs and those of their community, both in the Committee's discussions and later in parliament: "In particular women's rights, or lack of rights, is a direct product of their conservatism. … This is a very conservative society. … parliament is not going to easily implement laws that would end discrimination."[413]

While, therefore, in the first general Committee meetings, women's rights were raised several times, they were hardly mentioned again in the general discussions later on. Even more so, some topics constituted absolute red lines for the conservatives. During the discussions they refused to consider changes to the Nationality Law (reservation on CEDAW Article 9.2) and Personal Status Law (reservation on CEDAW Article 16). Though the liberals would not have minded changing it, it was hardly even discussed. The liberals did not push very hard on these topics. They knew that, as "part of this society, part of this culture", they were not going to achieve a complete women's rights reform chapter anyway.[414]

Side payments

Muasher wanted the National Agenda to be the foundation for a modern society that would be "open to the world, without losing its national identity"[415], and based on "justice,

410 Interviews and notes Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018
411 Interviews and notes Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018
412 Interviews and notes Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018
413 Interviews and notes Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018
414 Interview 30 (Political actor), interview by Violet Benneker, Amman, 2017
415 Interviews and notes Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018

dignity, and freedom".[416] This included, among other issues, women's rights, a completely new and representative electoral law, laws to support the development of civil society, and full freedom of expression that is protected by law "and not ruled by intimidation".[417] Even more so, all these goals were not to remain a set of general recommendations. Muasher wanted them to be accompanied by a timetable for implementation and benchmarks for performance, so progress could be quantified and measured.[418]

However, when the Committee started to discuss the Electoral Law, Muasher felt like "all hell broke loose".[419] When Bassem Awadallah, who had led the Jordan First Committee and who was still very close to the King, suggested that some controversial political rights be left out in order to gain at least some reform in some other areas, Muasher firmly refused.[420] In Awadallah's Jordan First Committee, fundamental changes to the Electoral Law were traded in return for the acceptance of a small women's quota in that law. But Muasher, selected to head the Committee because of his liberal ideas and reputation, wanted full reform; not only a completely new and representative electoral law, but also a just political party law, civil society law, full press freedom - and that on top of full reform of the economic system.[421] Though Muasher personally believed implementation of women's rights was worth pursuing, he was not ready to make a similar trade like the one that was made in the Jordan First Committee: "I am not willing to compromise; things are black or white. I don't like shades of grey. If you are going to do reform, you got to do the whole thing."[422]

Still, as the liberals of the Committee were fighting for a full and complete reform agenda, they realized the conservatives still had the majority in the Committee, so "we had to accommodate the concerns they had over the Agenda." [423] According to Muasher, some concerns were in fact mostly identity problems, alongside the concerns over reform that would threaten the conservatives' position of power. Women's rights reforms were seen as threatening Arab-Islamic norms and Jordanians' traditional way of life.[424] Consequently, due to unwillingness to add more fuel to the conservative protest fire, the controversial women's rights were slowly moved to the back of the reform train.

416 Interviews and notes Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018
417 Interviews and notes Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018
418 Interviews and notes, Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018
419 Muasher, p.250
420 Interviews and notes Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018
421 Interviews and notes Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018
422 Interviews and notes Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018
423 Interviews and notes Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018
424 Interviews and notes Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018

Lack of acceptance

The final version of the National Agenda was finally published in November 2005. It demonstrated Muasher's style of confronting some topics head-on. It was an extensive reform agenda, outlining many changes that conservatives considered threatening. For instance, it suggested two options for a new, more representative electoral law. Freedom of political activity was also guaranteed, and individuals and groups were even given "the right to sue the state in court for the benefit of general society". Other major changes included laws on the freedom of the media, freedom for civil society, and a new political party law.

It also had a particularly cautious tone on women's rights. Most burning issues that were identified by the CEDAW Committee, such as the reservation on Article 9, 15 and 16, or the inclusion of 'gender' in Article 6 of the constitution, remained largely untouched. One recommendation directly addressed the fact that CEDAW had not been fully ratified yet, and stated that the Jordanian government should "Follow the standard legal processes to confirm the commitment to adhere to the signed international agreements, and publish them in the Official Gazette."[425]

The importance of Jordan's reputation regarding international treaties was mentioned, yet the National Agenda also stated that women's empowerment should be understood within the Jordanian context; "Jordan has always been known to be a country that is open to the world, and that adheres to its commitment to the signed international agreements, especially those related to women's empowerment and the protection of their rights. This plan has taken the political, social and economic conditions as well as the special culture into consideration, when aligning the definition of women's empowerment with international agreements such as the CEDAW."[426]

Though most Committee members had agreed on the final version, that was not the case for those outside of the Committee. The conservatives who had protested during the drafting process felt the final version of the plan crossed too many of their red lines. The changes to the Electoral Law, in particular, were considered unacceptable. The carefully balanced tone on women's rights, emphasizing a middle way between the Jordanian context and the CEDAW, did not change that. "[The electoral law] was the issue that killed the Agenda. That was The Issue. Then they went to the King, and they convinced him that this was going to ruin the country as he knows it."[427] As a result, and by the time the Agenda was presented to the outside world, insiders already knew it had been shelved and would not be implemented.[428]

425 Translated from Arabic, 'The National Agenda 2005-2015'
426 Translated from Arabic, 'The National Agenda 2005-2015'
427 Interviews and notes Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018
428 Interviews and notes Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018

Increasing the range of compliance

The backlash effect and the subsequent shelving of the National Agenda meant the King had not made any move towards complying with CEDAW women's rights since the Greater Middle East Initiative was leaked. However, Jordan's desired election to the UN Human Rights Council was coming up in the spring of 2006.[429] Moreover, the government was in the middle of a CEDAW Committee review that year, and there were UPR and ICCPR Committee meetings coming up the following years.

Before the CEDAW working session, in which Jordan's lacking compliance would be openly discussed, the Committee had already urged the Jordanian government to publish the treaty in the Gazette. In the previous review round, the Jordanian representatives had promised that the ratification was "a mere formality".[430] It now defended non-publication on the grounds of the administrative burden of parliament; it had wanted to consider publication, but parliament had just not found the time to do so yet.[431] The CEDAW Committee's pre-session working group commented in response that "In the light of the fact that the Arab Charter on Human Rights, which was ratified subsequent to the Convention, has already been considered and published in the Official Gazette, please explain the delay in consideration of the Convention by the National Assembly and its publication in the Official Gazette."[432]

In response, the Jordanian decision-makers decided they would go ahead with having all human rights treaties published in the Official Gazette in the period that Jordan would be elected to the UNHRC. On 20 April 2006, Jordan officially applied to the UNHRC, and was elected on 9 May. A little over a week later, in June 2006, most treaties were published in the Official Gazette – but not the CEDAW. The following January 2007, the government tried again by publicly announcing that the CEDAW would be referred to parliament for endorsement. However, internally, many doubted whether any parliament would ever approve the treaty. According to one CEDAW entrepreneur active at that time, "the parliament would not give in. Because it is a combination of Islamists and tribes. And the Islamists are patriarchal, and the tribes are patriarchal. So, nothing for women from our parliament. But they found a way without the approval of the parliament."[433]

That other way meant instead of having parliament openly reject the treaty, the Jordanian decision-makers bypassed parliament and constitution by having the treaty published

429 Jordan Country Report 2009 – ICCPR; Jordan's application to UNHRC 2006
430 CEDAW/C/SR./456 (August 2, 2001)
431 'Consideration of reports submitted by States Parties under Article 18 of the CEDAW, Combined third and fourth reports of States Parties: Jordan' 10 March 2006
432 'List of issues and questions with regard to the consideration of periodic reports – Jordan' 27 February 2007.
433 Interview 46 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017; Interview 04 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017; 'Opinions and Analysis 2' Walid M. Sadi, 29 June 2003, *Jordan Times Archives*

directly in the National Gazette.[434] The treaty was then ratified one day before the CEDAW Committee working session, on 1 August 2007, and without giving parliament a chance to reject it.

A similar procedure was followed for the subsequent lifting of a reservation. During Jordan's Universal Periodic Review on 11 February 2009, the Committee urged Jordan to lift its reservations in order to comply with the CEDAW. Domestically, this was something that was considered very controversial and had not even been recommended by the National Agenda Committee, as "it is not going to be respected or welcomed by society."[435]

For Article 9.2, the tribes were most strongly opposed: "the issue related to nationality is accepted by the Islamists, we can lift it from an Islamic point of view. But we cannot lift it from a national point of view, because of the Palestinian issue."[436] For the lifting of the reservation on Article 16, there were more different communities opposed. It would indicate changing the Personal Status Law, and would therefore be the most controversial change as it would touch upon highly specified norms that regulated the day-to-day lives of Jordanian families. Not only the tribes were strongly opposed. For the Muslim Brotherhood, changing the Personal Status Law was an absolute red line: "it is very important to [Jordanians] because they are dealing with it every day. Every day! … That is why it is very important. And this is the last castle standing for us. Without it, really, there is no means for Islam in our country."[437]

Consequently, Jordanian CEDAW entrepreneurs advised the government to lift the reservation to 15.4 for the UPR review. They chose to focus on 15.4, "because it was possible". They wished that the Jordanian decision-makers would "abolish everything", but understood that "there must be a gradual process. At least this was something."[438] According to the understanding of the more liberal members of government, lifting this reservation would be "the least problematic. … Because freedom of movement does not touch Islamic beliefs and interpretations in the deepest sense. And every woman, even those belonging to the Islamic Action Front would like to move freely, get their own passport, move to different parts of the country without getting permission."[439] Moreover, the advice to lift the reservation on 15.4 could be presented as a match with Islamic norms according to the liberals; "the women's right to liberty of movement and freedom to choose residence is in conformity with the provisions of the Islamic Sharia, especially the right of the wife to include this condition in her marriage contract."[440]

434 Interview 46 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017
435 Interview 04 Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017
436 Interview 04 Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017
437 Interview 76, (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017
438 Interview 04 Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017
439 Interview 17 (Political actor), interview by Violet Benneker, Amman 2017; the condition referred to in the quote is allowed by Article 19 of the Personal Status Law No. 61 of the year 1976
440 NCHR Annual Report 2008, available at www.nchr.org.jo/ Last accessed 3 May 2018

Consequently, without giving parliament or other domestic opposition groups a say in the decision or making it a topic in a political dialogue, the Jordanian representatives announced to the UPR Committee that "the Government has withdrawn its reservation to article 15(4) of CEDAW."[441] Later, on 31 March 2009, the Council of Ministers issued a decree approving the withdrawal of reservation 15.4.[442]

Continued backlash effect

The ratification and the lifting of the reservation both caused direct backlash effects against the CEDAW. Even some liberals disagreed with the decisions. After the ratification of the treaty, Wadi M. Sadi, a commentator at the national newspaper The Jordan Times who had called for the official publication of CEDAW for years, wrote "Human rights treaties of the CEDAW magnitude must first be discussed and approved by parliament. The reasons are obvious: treaties with far-reaching dimensions and implications must be considered by the people's representatives. … The decision to publish CEDAW in the Official Gazette should not, therefore, be celebrated."[443] As one prominent CEDAW entrepreneur in Jordan states, looking back on that decision, "That was for me not the right thing to do. It has to go through the parliament. … I think it is a legal gap. A legal weak point."[444]

Yet the fiercest response came from the Islamic Action Front and the Muslim Brotherhood. It publicly announced that "this is one of the most dangerous agreements that affects the rights of citizens as well as the nation's identity and values". They called for active resistance against the treaty: "Scholars, rulers and citizens must confront such efforts, which are aimed at destroying the Muslim family."[445] They accused the US of being behind the treaty, with the aim of driving a wedge between Jordanians and Islam.[446]

Looking back, norm entrepreneurs with links to the Brotherhood remember the period after ratification as the time when they were getting more organized to protest against the CEDAW. "So we started at that time, we started a very wide ranged campaign to raise awareness among the Jordanian people about this, by lecturing, by giving training courses. At all different levels. We worked with public people, we worked with the professional associations of the doctors, the pharmacists, the engineers, the judges, we worked with some religious leaders. They didn't know what CEDAW meant! So they didn't have anything against it. So we started to raise awareness about CEDAW and what it means. And how it will affect Jordan and Jordanian values."[447]

441 'Universal Periodic Review: Report of the Working Group on the UPR – Jordan' 29 May 2009
442 Country Report Jordan, CEDAW Committee, 24 September 2010
443 'Good, but not enough', *Wadi M. Sadi, Jordan Times Archive*, 29 July 2007.
444 Interview 04 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017
445 'Islamists slam women's rights convention' *Jordan Times Archive*, 6 August 2007.
446 'Reservations about reservations', Wadi M. Sadi, *Jordan Times Archive*, 13 August 2007
447 Interview 34 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017

The mobilization against the CEDAW was set up relatively quickly, as the Brotherhood was very well organized and popular in Jordan. But it did not stop at the Jordanian borders. The entrepreneurs became an active part of the Arab-Islamic coalition arguing that "UN commands should not be followed all the time. That every nation has its own personality, its own features. … As leaders of the world, you don't have to interfere in everything!"[448] They also went to UN sessions on women's rights to advocate family norms.[449]

The entrepreneurs set to defend the normative status quo benefitted from their increased level of organization when the reservation was lifted two years after the ratification of the treaty. Even though the Jordanian government had decided to "lift the reservation to the least problematic article"[450], this was still considered much too problematic. One entrepreneur with links to the Brotherhood explains her strong opposition to the lifting of the reservation: "I am against [lifting] this reservation, because it says a woman can choose a place to live! Without consulting anybody! … I have a daughter and she became 18 years old, so now she can choose not to live with me at home?! This is why we are against CEDAW. Because we believe it rips our family values. We have family values in our country! And we all know that these family values keep our community in a good way. … . the only thing we still have are our family values, which are key."[451]

Many different organizations together quickly organized the resistance against the lifting of the reservation. In a press conference, leaders of the Islamic Action Front together with women activists of the party "sounded the alarm about the possible consequences of CEDAW on the Jordanian family and society in general."[452] They called on the government to withdraw from the whole treaty, as they believed the treaty would lead to "a myriad of social problems."[453]

The president of another Islamic organization, the Moderation Assembly for Thought and Culture, warned that "the agreement is not consistent with our religion and traditions and it will change our national identity". According to him, the treaty "adopts the views of the liberals who do not represent Arab Muslim communities."[454] Al-Afaf, a charitable organization advocating family and motherhood, announced that allowing women independence in deciding their place of residence would "surely and definitely lead to [moral] corruption."[455]

448 Interview 26 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017
449 Interview 34 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017; Interview 26 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017
450 Interview 17 (Political actor), interview by Violet Benneker, Amman 2017
451 Interview 34 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017
452 'Islamist movement calls on gov't to withdraw from CEDAW' Mohammed Ben Hussein, *Jordan Times Archive*, 28 April 2009
453 'Islamist movement calls of gov't to withdraw from CEDAW' Mohammed Ben Hussein, *Jordan Times Archive*, 28 April 2009
454 'Women activists call on gov't to lift remaining reservations on CEDAW' Hani Hazaimeh, *Jordan Times Archive*, 1 May 2009
455 'CEDAW in context' Nermeen Murad, *Jordan Times Archive*, 12 May 2009, brackets in original.

King Abdullah reaffirmed the decision to withdraw the reservation through a royal decree on 5 May 2009. But even an official royal approval could not subdue the opposition anymore. Parliament would later reject the royal decree, and resistance continued throughout the year.[456] Some raised the option of withdrawing the lifting of the reservation, but this was considered as highly undesirable by others: "If Jordan were to succumb to pressure and revoke its decision, it would be the first country in the world to do so. The damage to the country's image, reputation and credibility would indeed be great."[457]

Annulling ratification and the lifting of the reservation

Eventually, a solution was found that allowed for an annulment of the decision in practice, without damaging Jordan's reputation within the Western-oriented international community. The King's Grand Mufti Noah Ali Salman adopted a resolution stating that "whatever violates the rules of Sharia from the 'CEDAW Convention' is forbidden and impermissible to put into effect … It is imperative that every Muslim rejects matters that contradict Allah's Law."[458] This was followed up by a fatwah called 'The judgment of the CEDAW Convention'. It reads that "The CEDAW Convention contains clear violations of Islamic law, especially those contained in Articles 15 and 16, and we oppose and denounce everything that contravenes Islamic law"[459]. The fatwah also places trust in Jordanian society in resisting the treaty: "I want to show everyone that lifting the reservation is all against Islamic law, but society will not be affected by it. Because the provisions of Islamic law are the reference to our society, and not any conventions that are contrary to Islamic law". Moreover, the fatwah supported parliament's rejection of CEDAW: "We expect our fellow MPs to oppose this convention when it comes up for discussion.[460]"

Even though fatwahs had no official status in the Jordanian legal pyramid comprised of domestic law, constitution, and international law, they carried much more social legitimacy than a human rights treaty. In Jordan "fatwahs speak to the community, while human rights treaties speak to the West." [461] Fatwahs influenced policy-making, law-making, court decisions, and social life in Jordan. Moreover, they were under complete government control. Only state-appointed councils were allowed to issue fatwahs, and it was illegal to criticize them.[462] According to a Jordanian expert, it was very difficult to openly disagree with these fatwahs, both "politically and socially."[463] Consequently, by making use of the fatwah system, the Jordanian government had effectively reversed the decision to ratify

456 'Untenable' *Jordan Times Archive*, 31 August 2009
457 'Untenable' *Jordan Times Archive*, 31 August 2009
458 Resolution No. 132 'Articles 15 and 16 of 'CEDAW Convention', 23 August 2009. Last accessed 30 August 2017.
459 Fatwah number 704, 'the Judgement of the CEDAW Convention', 10 May 2010. http://www.aliftaa.jo/Question.aspx?QuestionId=704#.WaW4lsgjHIU. Last accessed 29 August 2017.
460 Fatwah number 704, 'the Judgement of the CEDAW Convention', 10 May 2010. http://www.aliftaa.jo/Question.aspx?QuestionId=704#.WaW4lsgjHIU. Last accessed 29 August 2017.
461 Interview 01 (Expert on law), interview by Violet Benneker, Amman 2017
462 Freedom House Jordan country report, 2009.
463 Interview 01 (Expert on law), interview by Violet Benneker, Amman 2017

and lift the reservation at the domestic level, without doing so officially at the international level.

Despite this annulment, the CEDAW Committee praised Jordan for the ratification of the treaty. It commended "the State party for publishing the Convention in the Official Gazette, which gives it the force of law in Jordan", though it was also "concerned that the Convention has not been made fully operational in Jordan, as enabling legislation remains to be adopted."[464] It also approved of the lifting of the reservation, but maintained critique as well: "While commending the State party for withdrawing its reservation to article 15(4) of the Convention [...] the Committee reiterates its concern about the State party's reluctance to lift the remaining reservations to articles 9, paragraph 2, and 16, paragraph 1 (c), (d) and (g). The Committee is not convinced of the political and cultural constraints preventing the lifting of the abovementioned reservations as argued by the State party."[465] None of the documents indicate the Committee expressed critique on the way the treaty was published, nor do the documents suggest the Committee had knowledge of the government's religious resolution and fatwah on the CEDAW. Interviewed members and employees of related international organizations in Jordan indicated they had no knowledge of the resolution or the fatwah.

5.3 Refusing further compliance, 2011-2017

Refusing to add gender equality to the constitution

When the Arab Spring was sparked in Tunisia in December 2010, it very quickly spread through the region. By mid-January 2011 there were also protests in Amman, and even though nobody was calling for the full dismissal of the royal family yet, King Abdullah took the protests very seriously.[466] As described in Chapter 4, this period was characterized by a more pronounced vulnerability to domestic communities due to these protests. The Islamists and Salafists in particular were calling for legislation to be more in line with Sharia law: "There's no question that an effort should be made to amend these laws so that they become Islamically legitimate."[467] In Jordan, this led the Salafists to demand full implementation of Sharia law during the Arab Spring protests.[468] On the streets, the implementation of CEDAW women's rights was not one of the demands. Only a few CEDAW entrepreneurs were part of the Hirak, the main protest movement in Jordan's Arab Spring.[469]

464 CEDAW/C/JOR/CO/4 (August 10, 2007); CEDAW/C/JOR/CO/5 (March 23, 2012)
465 CEDAW/C/JOR/CO/5 (March 23, 2012)
466 Interview 20 (Political actor), interview by Violet Benneker, Amman 2017
467 Wagemakers, 2016:314
468 Abu Ruman & Shteiwi, 2018:30
469 Interview 71 (Expert on women's rights), interview by Violet Benneker, Amman 2017

This period also laid bare Jordan's dependency on countries within the Arab-Islamic community. Gulf countries donated billions to keep the Hashemite Court in place, while the Jordanian Muslim Brotherhood felt emboldened by its victory in Egypt and believed it might also rise to power in Jordan. The aftermath of the Spring brought chaos and civil war right to Jordan's doorstep, and with it, a massive influx of refugees. However, it was also because of these refugees that the Western-oriented community's women's rights monitoring that was so characteristic of the previous time period, was significantly reduced – and with it, so too the pressure to comply.[470]

Starting a dialogue: the 'Constitutional Reform Committee'

In order to mediate the domestic pressure for reform, the King set up yet another Committee – two, in fact. The National Dialogue Committee was supposed to come up with ideas for a new election law that would redistribute power in parliament. Yet the real threat to Hashemite power was to be discussed by the Constitutional Reform Committee. This Committee was appointed to propose amendments to the constitution, which regulates the King's power, but also discussed the option of including 'gender' in Article 6 on the equality of Jordanians.

The King no longer seemed prepared to risk using the consensus-creating strategies in favor of compliance – on the contrary. While he gave the Committee *carte blanche* to come up with any amendments to the constitution,[471] the Committee's recommendation to safeguard gender equality in Article 6 of the constitution was blocked. Instead, the Jordanian decision-makers made sure the proposed amendment to Article 6 protected the family and motherhood: "The family is the foundation of the society. It is founded on religion, morality and patriotism. The law preserves its legal entity, strengthens its ties and values, protects under it motherhood and children and cares for youth and people with disabilities and protects them from exploitation."[472]

Participant selection

The King chose the late Ahmad Lozi, a so-called Jordanian-Jordanian, to head the Committee who had served as senate president, chief of the Royal Court and minister of state. [473] Taher Masri, the deputy chair of the Committee, remembers him as "objective and fair" in his role as chair.[474] Lozi's career indicates he was particularly loyal to the Hashemites. The deputy-president Taher Masri himself, a Jordanian of Palestinian descent, had also been part of the Hashemite establishment for a long time.[475] He served as prime minister under

470 Interview 68 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017
471 'Constitution review panel has carte blanche' 1 May 2011, Jordan Times Archive.
472 'Substantive Equality and Non-Discrimination in Jordan' Shadow report submitted to CEDAW Committee at the 51st session, Arab Women Organization.
473 "Ahmad Lozi passes away", Jordan Times, November 18, 2014, Jordan Times online
474 Interview with Taher Masri, (Former minister; member of the Constitutional Reform Committee) interview by Violet Benneker, Amman 2018
475 Musa Keilani, "How decisions are made", Jordan Times, May 10, 2014

King Hussein, and held several other high positions as ambassador and foreign minister to Jordan. Nonetheless, in the words of political analyst Fahed Khitan, Taher Masri "has always taken the side of the people and popular movements despite his senior state positions."[476] In particular, he had a reputation for advocating Palestinian rights.[477]

Still, by choosing mostly loyal statesmen, the King seemed to have been unwilling to let the protesters decide on the constitution. The eight other members, alongside Lozi and Masri, were also all statesmen loyal to the Hashemites. They were former ministers, senators, prime ministers, or had occupied other high positions, such as head of the judicial council. They were a mix of Palestinian-Jordanians and Jordanian-Jordanians. Some were known conservatives.[478] None were women.

Persuasion

In their discussions, the ten men followed the format as proposed by Committee member Taher Hikmat, since he had worked on the writing of the Bahraini constitution. During the interviews for this research, Taher Masri did not recall many intense clashes over specific topics as they went through the constitution article by article. However, many Jordanians did try to influence the Committee's process, for example by writing letters with suggestions.

Influential CEDAW entrepreneurs tried to persuade the Committee to make changes to the constitution that the women's movement wanted to see. One of these was the word 'gender' in Article 6. They tried to convince the Committee to include it in the Jordanian constitution, by pointing out that almost all Arab-Islamic countries have this word in their constitution too. They argued that as it was common practice across the Arab-Islamic community to include this word, surely it must be possible for Jordan to do the same.[479] For instance, the Bahraini constitution, too, of which the writing format provided the basis for the Jordanian Constitutional Reform Committee's discussions, also included the word 'sex' in its new version.[480] Jordanian CEDAW entrepreneurs were of the understanding that Masri indeed promised to have this word added to Article 6.[481]

Other influential Jordanians also attempted to convince the Committee to include this word. For some, it was especially important to make sure the Palestinians were given their right to equal citizenship. According to these influential individuals, the Constitutional Reform Committee was indeed willing to take up this suggestion.[482]

476 Dana Al Emam, "Politicians, observers commend Masri's achievements throughout political career", Jordan Times, September 9, 2016
477 Interview 44 (Political analyst), interviews by Violet Benneker, Amman 2017, The Hague 2018; Musa Keilani, "How decisions are made", *Jordan Times*, May 10, 2014
478 'Constitution review panel has carte blanche' 1 May 2011, *Jordan Times Archive*.
479 Interview 04 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017
480 Bahrain's Constitution of 2002, accessible via https://www.constituteproject.org/constitution/Bahrain_2002.pdf Last accessed 13 May 2021
481 Interview 04 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017
482 Interview 05 (Political actor), interview by Violet Benneker, Amman 2017

According to Taher Masri himself, the Committee did not need much persuading on this issue. They were willing to take up the word 'gender' in their proposed amendment of Article 6. For most, including this word did not clash with the understanding that men and women may be equal, but are also different.[483] And more importantly, it would provide equal citizenship to Palestinian-Jordanians.[484]

Topic selection

A working version of the proposed amendments that was leaked later shows that the word was indeed part of the recommendations: "Amending Article 6 (i) to include (sex) following language or religion: in "Jordanians shall be equal before the law. There shall be no discrimination between them as regards to their rights and duties on grounds of race, language or religion."[485] Yet, when the final version of the proposed amendments was presented at the Royal Court on 14 August 2011, the word 'sex' was gone. Instead, the following section on family and motherhood had been added: "The family is the foundation of the society. It is founded on religion, morality and patriotism. The law preserves its legal entity, strengthens its ties and values, protects under it motherhood and children and cares for youth and people with disabilities and protects them from exploitation."[486]

The head of the Committee and the chief of the Royal Court eventually told the Committee that including the word 'gender' or 'sex' was not possible. It was then difficult for the rest of the members of the Committee to go against such an opinion.[487] Publicly, no explanation was given on why the word was excluded. Moreover, a couple of days after the presentation, a source from inside the Royal Court "leaked" the news that it had never even been part of the proposed amendments in the first place.[488]

Those with knowledge of the process give two reasons for why the word 'sex' was blocked in the end. One explanation is that making sex equality this specific in the constitution meant paving the way for a new nationality law, and the powerful tribes believed giving Palestinian-Jordanians full and equal citizenship was too threatening to the Jordanian-Jordanian identity.[489] Therefore, allegedly, the Jordanian decision-makers blocked this

483 Interview with Taher Masri (Former minister; member of the Constitutional Reform Committee), interview by Violet Benneker, Amman 2018

484 Interview with Taher Masri (Former minister; member of the Constitutional Reform Committee), interview by Violet Benneker, Amman 2018

485 'Review of proposed amendments to Jordanian Constitution' 15 August 2011, Ammon News, http://en.ammonnews.net/article.aspx?articleno=13313#.WtRl5cguCdc Last accessed 18 April 2018.

486 'Substantive Equality and Non-Discrimination in Jordan' Shadow report submitted to CEDAW Committee at the 51st session, Arab Women Organization.

487 Interview with Taher Masri (Former minister; member of the Constitutional Reform Committee), interview by Violet Benneker, Amman 2018

488 'No gender additions proposed to constitutional amendments' 17 August 2011, Ammon News, http://en.ammonnews.net/article.aspx?articleno=13355#.WtRlycguCdc Last accessed 19 April 2018.

489 Interview 21 (International norm entrepreneur), interview by Violet Benneker, Amman 2017; Interview 79 (Political actor), interview by Violet Benneker, Amman 2017

amendment to prevent further protests by the Jordanian-Jordanian tribes.[490]

Another explanation is that it was considered too threatening to the Arab-Islamic norms on women's roles.[491] Alongside paving the way for changing the Nationality Law (CEDAW reservation Article 9.2), it was feared that it would also open the floodgates to changing the Personal Status Law (CEDAW reservation Article 16). The Islamists considered this their "last castle standing",[492] and they felt they had much leverage with their supporters out on the streets across the region. According to the individuals who believe this was the decisive motivation for blocking recommendation, it was the head of the Sharia Supreme Court that strongly advised the King not to include the word in Article 6.[493] Consequently, the section on motherhood was included in the recommendations as it would be in line with the Islamists' demands and understanding of women's rights. The same source that 'leaked' the fact that gender had never been part of the recommendations, also explained the reason for including the section on motherhood. It was "obvious and responded to developments and changes that had started to take effect on societies. This necessitated fortifying them forcefully and decisively with legal rulings."[494]

Refusing further compliance

After the recommendations from the Committee were received by the Royal Court on 14 August, the government approved them on the 24th of the same month.[495] Parliament and senate approved the proposed changes in September,[496] and on the first of October, the King made the amendments official by royal decree.[497]

But during that process, there was critique that the new constitution did not give Palestinian children of Jordanian mothers equal citizenship. On 6 September dozens of Jordanian women protested in front of the parliament calling for citizenship rights for their Palestinian husbands and children.[498] Yet the addition to Article 6 was much appreciated by others, for instance by members of the Brotherhood: "When it comes to the Royal Court, they studied it patiently and they found where it needs balance. [They] can't take everything for granted. And [they] can't impose everything by force. Although it happens sometimes. So

490 Interview 42 (Political actor), interview by Violet Benneker, Amman 2018; Interview 17 (Political actor), interview by Violet Benneker, Amman 2017; Interview 46 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017

491 Interview 26 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017; Interview 04 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017; Interview 46 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017

492 Interview 76 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017

493 Interview 26 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017; Interview 04 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017

494 'Explanatory Memorandum on the review of the 1952 constitution of the Hashemite Kingdom of Jordan issued in 2011' Ammon News, 17 August 2011.

495 "Cabinet approves draft constitutional amendments" *Ammon News*, August 24, 2011

496 "Senate endorses 13 constitutional amendments", *Ammon News*, September 28, 2011; "Senate approves constitutional amendment draft", *Ammon News*, September 29, 2011

497 "Royal Decree approves constitutional amendments", *Ammon News*, October 1, 2011

498 "Jordanian women protest nationality for family", *Ammon News*, September 6, 2011

they stopped this, which is good. They need to keep the balance."[499]

Countries from the Western-oriented community also praised Jordan, and did not comment on the refusal to include gender equality in the constitution. The US "welcomed" Jordan's constitutional amendments. The EU did the same, and added that "building on our strong political and economic partnership, the European Union stands ready to support Jordan on its reform path."[500]

The CEDAW Committee, on the other hand, stated "While noting the recent review of the Jordanian Constitution that aimed at enhancing people's enjoyment of their civic and political rights, the Committee is deeply concerned that women were not included in the composition of the Royal Committee mandated to review the Constitution and proposing amendments to the Parliament; that women's demands were not taken up by the Royal Committee; and essentially, that the prohibition of discrimination on gender basis was not incorporated in article 6 of amended Constitution in 2011."[501]

Maintaining the status quo

The refusal by the Royal Court to include gender equality in the proposed amendments is illustrative of the following years. Some CEDAW entrepreneurs remember 2011 as a watershed moment. They became very disappointed, not only by the King's inaction, but also in the Western-oriented international community. There was hardly any international pressure or attention for women's rights anymore, and most international donor money was now focused on refugees; "We keep talking about refugees and are not talking about women's rights anymore. And I think the international community is an accomplice in our lack of progress. They don't want to deal with the refugee issue, so they give Jordan praise and everything, so they don't have to deal with them."[502]

At the same time, the now well-organized entrepreneurs set on defending the normative status quo continued to influence Jordanian politics. For instance, when in 2012 the Jordanian prime minister promised to lift more reservations at an international convention in Amman, around 150 women from the Islamic Action Front formed a human chain at a main street in the capital in response, demanding he retract his statements. The head of the Islamic Action Front's Women's Department told the press that "We are here to reject the prime minister's remarks because lifting these reservations threatens the security and stability of our homes." Other women stated that the CEDAW was "a Western agenda

499 Interview 26 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017; "Opposition to protest next Friday demanding tangible constitution amendments", *Ammon News*, October 1, 2011

500 "France: Constitutional amendments in Jordan step in the right direction", *Ammon News*, October 17, 2011; "British Foreign Secretary welcomes Jordanian reforms" *Ammon News*, October 18, 2011; "EU welcomes announcement of the proposed constitutional amendment in Jordan", *Ammon News*, October 19, 2011; "US welcomes Jordan's constitutional amendments", *Ammon News*, October 24, 2011

501 CEDAW/C/JOR/CO/5 (March 23, 2012)

502 Interview 68 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017

that is enforced on us, and women's civil society in Jordan adopted it to get funding".[503] Subsequently, despite the prime minister's promises, no reservations were lifted.

During Jordan's CEDAW review of 2012, the CEDAW Committee found a state party that was more defiant than ever since Abdullah ascended the throne. In contrast to what was the case during the visit to Geneva in 2007, Jordan did not send an exceptionally high-level delegation. Also, demands for further change - such as changing the Nationality Law - were rejected; "The political situation in the region, refugee inflows and instability in several Arab countries are hampering efforts to respond to demands for a review of this issue." [504] Moreover, the state party emphasized that "many forces in society" were actively working against discussing the lifting of further reservations, and that some had "even called for withdrawal from the Convention."[505]

Still, the CEDAW Committee advised the lifting of the other reservations and including gender equality in the constitution,[506] but it was to no avail. In the years following 2012, Jordanian decision-makers refused to implement any significant changes on women's rights. Even the attempts made by the Jordanian women's movement to increase the women's quota in parliament failed.[507] By September 2016, Freedom House raised the alarm with an article 'Why is Jordan backsliding on gender equality?'[508] It warned that Jordan fell in the ranking to 140 out of 145 on the Global Gender Gap Index, doing better only than Iran, Chad, Syria, Pakistan, and Yemen.[509] In the words of one CEDAW entrepreneur; "Nowadays, if you ask me, what is the situation for CEDAW in Jordan, I say we went back ten steps. This is one of the results of the Arab Spring."[510]

When it was the turn of Jordan to be reviewed by the CEDAW Committee five years later in 2017, the delegation was made up of only three people: the permanent representative to the UN, the head of the Jordanian National Committee for Women, and, for the first time under King Abdullah, a conservative Islamic shaykh. CEDAW entrepreneurs felt that the state report itself had very little to show for.[511] Yet, also for the first time, the CEDAW

503 Rana Husseini, "Islamists urge Ensour to retract statement on CEDAW reservations", *Jordan Times*, November 12, 2012, Jordan Times Digital Archive in Amman; Rana Husseini, "IAF women members protest against CEDAW", *Jordan Times*, November 14, 2012, Jordan Times Digital Archive in Amman (CEDAW)

504 'Responses of Jordan to the list of issues to be taken up in connection with the consideration of its fifth periodic report', 18 January 2012, p. 3 CEDAW Committee.

505 'Responses of Jordan to the list of issues to be taken up in connection with the consideration of its fifth periodic report', 18 January 2012, p. 3 CEDAW Committee.

506 'Concluding observations of the Committee on the Elimination of Discrimination against Women', 9 March 2012.

507 Interview 46 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017

508 https://freedomhouse.org/blog/why-jordan-backsliding-gender-equality, Last accessed 19 April 2018.

509 In 2010 it did better than 14 countries, and in 2006, the first time the Index was published, it even did better than 22 countries. http://reports.weforum.org/global-gender-gap-report-2010-info/ Last accessed 16 April 2018.

510 Interview 70 (Jordanian CEDAW norm entrepreneur), interview by Violet Benneker, Amman 2017

511 Interview 26 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017; 'Consideration of reports submitted by States parties under article 18 of the Convention – Jordan', 22 June 2015

Committee started its concluding observations not with critique, but with a list of "Factors and difficulties preventing the effective implementation of the Convention". The paragraph specifically acknowledged the impact of the continuing conflict and refugee influx on Jordan and even "notes with concern that the support from the international community has been insufficient to alleviate the burden on the state party and the host community and calls upon donors to meet the humanitarian needs identified by the United Nations."[512]

Domestically, anti-CEDAW norm entrepreneurs also noticed that the status quo was no longer challenged: "it has calmed down now. Because now things are different, and many other things are happening in Jordan."[513] Most were content they no longer needed to protest against the CEDAW to defend their norms. Yet, "If it comes back, we will do it again."[514]

5.4 Conclusion

This case study of CEDAW implementation in Jordan shows how decisions on compliance are often part of political dialogues on reform that are started in periods of increased vulnerability. Moreover, though not expected by the propositions, it sheds light on when and why backlash effects develop, and how they can force state decision-makers to reverse their decisions.

Proposition 3 posits that state decision-makers who are vulnerable to the Western-oriented international society and whose human rights compliance is closely monitored will start a political dialogue to make a decision on compliance possible that is acceptable to the communities involved. This expectation is supported by the evidence on the Jordan First and the National Agenda dialogues in the post 9/11 period. In response to the increased vulnerability to the Western-oriented international community, King Abdullah created two subsequent political committees to make reform possible; the Jordan First Committee and the National Agenda Committee. The evidence makes it clear that, in particular, the monitoring by and pressure from a strategic ally, the US, was the most direct trigger in starting these political dialogues, in addition to the comments and monitoring cycles from the UN monitoring bodies. These findings support proposition 3a, which posits that monitoring of the CEDAW together with vulnerability are scope conditions under which a political dialogue is initiated.

In addition, the Jordan First dialogue supports Proposition 4a. Jordanian decision-makers used different consensus-creating strategies in favor of compliance, which were shaped by the conditions of vulnerability and norm specificity. Not all strategies were equally possible to

512 'Concluding Observations on the sixth periodic report of Jordan', 9 March 2017
513 Interview 26 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017
514 Interview 26 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017

use. The decision-makers' vulnerability to the conservative tribes, in particular, significantly shaped the use of most strategies. This is shown, first, in the selection of the participants. The King did not have complete autonomy in choosing reform-minded participants, as the conservatives in particular needed to be strongly represented in the Committee. In a similar manner, this vulnerability influenced the selection of topics discussed during the dialogue. During the discussion, it soon became clear what the conservatives' red lines were regarding women's rights, and those lines were respected. This also made persuasion largely ineffective. Finally, the King's vulnerability to this community also influenced the use of side payments. The evidence suggests the King and the Committee leader consulted with the conservatives, and were willing to trade some controversial women's rights and other policies so as to make a small step towards compliance acceptable. Even though the conservatives were not persuaded of the need for a women's quota, the King did not move forward without their consent, nor without making sure the quota would benefit their interests as much as possible.

Finally, the Jordan First dialogue also supports Proposition 5a, as it allowed the Jordanian decision-makers to eventually implement a women's quota in parliament, which is a relatively small, but visible increase in compliance. Consequently, in this case, the political dialogue as a framework helps us understand the process in which bits and pieces of the CEDAW are discussed, accepted, rejected, diluted to fit domestic norms, or traded for other, sometimes unrelated, laws and policies, in order to make a smaller decision on compliance acceptable.

The process of the National Agenda dialogue is particularly interesting to study how backlash effects against human rights can develop during a dialogue. Like in the Jordan First Committee, and as expected under P4a, consensus-creating strategies were deployed in order to make reform acceptable that was as much in line with Western demands as possible, but it was met with resistance from the very start. This difference makes it possible to shed further light on the strategies used during the dialogue, and identify why and during which steps backlash effects are likely to develop.

First, participant selection was a more prominently-used strategy in the National Agenda Committee than it was for the Jordan First Committee. Liberals and reform-minded individuals were more strongly represented, and this is also reflected in the choice of the Committees' leaders. The Jordan First Committee was officially headed by a religious figure, and informally led by the deputy, a Jordanian-Palestinian liberal. The National Agenda, on the other hand, had one president only, who was an outspoken liberal who did not have time for tribal politics.

While the Jordanian decision-makers were equally vulnerable to the Western-oriented

community in this period as compared to the Jordan First process, the international monitoring became stronger through the Greater Middle East Initiative. This might also explain why they initially pushed much harder to make a change possible than during the Jordan First Committee, by selecting more outspoken liberals. However, it did have the effect that resistance against the National Agenda process already developed within the tribal communities after merely selecting the participants.

The choice for Marwan Muasher also strongly affected the use of the other strategies. Where Bassem Awadallah was willing to make some significant trades in order to make a women's quota possible, that was not the case for Marwan Muasher. He wanted to develop a full reform agenda, and was willing to confront the tribal communities and their position of power head-on. This strengthened the latter in their concerns, and further increased their resistance against the initiative.

While the push to move towards reform was stronger as compared to the Jordan First process, the space to find consensus had actually decreased. The norms mismatching with CEDAW had become more highly-specified. Both the Arab-Islamic and Jordanian communities had spoken out strongly against the Greater Middle East Initiative, and against its emphasis on women rights specifically. They had further specified what Arab-style human rights should look like through the updated Arab Charter of Human Rights. Moreover, anything perceived as US-imposed reform was now more than ever considered as highly undesirable, and women's rights had come to symbolize that.

The harder push towards compliance in fewer space subsequently affected the possibility of finding consensus, as the domestic veto communities especially did not start to accept new options that were previously considered unacceptable. Instead, the opposite happened: these communities' representatives made a veiled threat to King Abdullah, stating that they hoped they could keep supporting him in the future if he would keep supporting the National Agenda dialogue. Eventually, their resistance resulted in the National Agenda being effectively shelved and never implemented.

This led to an impasse for Jordanian decision-makers. The dialogue had not resulted in an outcome that was accepted by the relevant communities, as was expected under P5a, and which would have allowed them to respond to the international pressure to reform. Their eventual choice to move forward with the publishing of the CEDAW and the lifting of the CEDAW reservation without building consensus first, led to such a strong backlash effect that they were forced to revoke these steps.

These findings increase our understanding of backlash effects against human rights, and in

particular how they can develop in response to different stages of the proposed pathway of the political dialogue: during the start of the dialogue (Part 1) by selecting participants who are not approved by, or do not include sufficient domestic (veto) communities; by focusing too much on changing the status quo and not using consensus-creating strategies sufficiently (Part 2); and by making decisions on compliance that are not based on previously-built consensus and despite built-up resistance, leading to both the annulment of the CEDAW ratification and the lifting of its reservation (Outcome).

For the following time period that starts with the Arab Spring, Proposition 3b posited that King Abdullah would not start a political dialogue to respond to Western pressures as one of the two scope conditions, monitoring, decreased. This was confirmed, as even though the King did form two political committees in order to deal with the increased level of domestic vulnerability, neither of those were instigated to deal with pressures from the Western-oriented international community or to make a decision on compliance with women's rights possible. The domestic demand to include gender equality in the constitution had more to do with the Jordanian/Palestinian inequality in Jordanian society than with a push to comply with the CEDAW or a desire to demonstrate that Jordan was a legitimate member of the Western-oriented international society. The subsequent blocking of changing the constitution can be explained by the King's significantly increased domestic vulnerability, in particular to the tribal communities whose support was now crucial during the protests, in addition to the decreased international monitoring. Moreover, it is also possible that the King became much more hesitant to push in favor of women's rights due to the considerable backlash effects against the CEDAW.

Once the Arab Spring protests quietened down, the Western-oriented community became more concerned with refugees than with women's rights. By the end of the studied period, even the CEDAW Committee became more lenient and urged the international community to aid Jordan, regardless of its record on CEDAW compliance. King Abdullah did not start a dialogue to implement women's rights in this period either. This is further evidence that scope conditions of international vulnerability and monitoring are, together, necessary conditions to trigger a political dialogue on compliance (P3).

Political dialogues about ICCPR compliance in Jordan

6.1 Introduction

The previous chapter showed how political dialogues resulted in an increase in compliance, but also in strong backlash effects against the treaty. This chapter on ICCPR's Article 18 has a similar starting point of mismatching norms and the same changing scope conditions.[515] Yet, the quantitative findings of chapter 3 indicated that if a political dialogue on religious freedom is present at all, it would be notably different from the one on women's rights.

This chapter finds that Jordanian decision-makers did start a political dialogue in response to Jordan's vulnerability to the Western-oriented international community and increased monitoring on norms regarding religious freedom. However, the dialogue did not have the aim of increasing compliance. Instead, the dialogue was used to make a new law in Islamic legislation possible that reaffirmed the status quo of religious freedom. In addition, the dialogue was instrumental in legitimizing the constraining of some extremist Islamist communities, as was demanded by the US. Subsequently, the dialogue made it possible to maintain the religious freedom of some groups and to decrease it for others. In the period after the Arab Spring, the US 'War on Terror' had ended, and with it the intensified monitoring. Consequently, we do not see the start of any new political dialogues on religious freedom either. Nevertheless, Jordanian decision-makers did aim to maintain the legislative status quo, and continued constraining some parts of religious freedom.

6.2 A dialogue to protect freedom to worship: 2001-2010

As Chapter 4 describes in more detail, Jordan had always carefully balanced its connections to the Arab-Islamic and domestic communities, in response to its significant involvement with and vulnerability to the Western-oriented international community. 9/11 and its aftermath significantly deepened the need for that balancing act. When the Bush administration leaked its Greater Middle East Initiative in February 2004, the Jordanian decision-makers "took that seriously, as Bush had bombed Iraq."[516] At the same time, the US actions were seen as a clash of civilizations within the Arab-Islamic international community. In that clash, Jordan needed to show it was on the Arab side – especially when it came to religion.[517] Domestically, the Jordanian decision-makers needed to address the increasing popularity of Salafism, but also the concerns that were growing among the Christian minority groups.[518]

515 See chapter 3 on the scope conditions at the start of the time period studied.
516 Interviews and notes Dr. Marwan Muasher (Former minister; President of the National Agenda Committee), interviews by Violet Benneker, Amman 2017, 2018
517 Al-Janhani 2007:14; Kayaogly, 2012; al-Shalabi and Alrajehi 2011; Gutkowski, 2016:208; Wiktoriwicz&Taji-Farouki, 2000
518 Gutkowski, 2016; Browers 2011; Al-Shalabi 2017; Al Shalabi and Alrajehi 2011

Starting a dialogue: 'the Amman Message and the Three Points'

By 2004 and right after the Greater Middle East Initiative was leaked, the King started a new dialogue which would become known as The Amman Message. It was a direct response to criticism from the Western-oriented community that blamed Arab-Islamic states for restricting religious freedom and encouraging extremism. At the same time, it was also directed at those communities who believed Arab-Islamic states should indeed limit religious freedom, including the freedom of 'other' Muslims such as Shi'as; "Today, the magnanimous message of Islam faces a vicious attack from those who, through distortion and fabrication, try to portray Islam as their enemy. It is also under attack from some who claim affiliation with Islam and commit irresponsible acts in its name."[519] The dialogue had to counter these "attacks" through creating a consensus on religious freedom for Muslims and non-Islamic religions.[520] Or, as the King described the goal of the dialogue in his own words: "in the end, this is a battle in which ideas are the most potent weapon."[521]

The dialogue started as a sermon on 9 November 2004, the holiest night of the month of fasting, Ramadan, in the Al-Hashimiyyin mosque in the capital Amman.[522] The sermon was led by the King's Advisor on Islamic Affairs and the Chief Justice Shaykh Tamimi, who had previously headed the Jordan First Committee. Even though the dialogue started from an inherently Islamic platform, it had the specific aim to address non-Muslims as well.[523] Prince Ghazi bin Muhammad bin Talal, the King's cousin who was chosen to lead the dialogue, would later declare that "the Amman Message expressly holds that non-Muslims can expect certain things from Muslims", such as religious freedom.[524]

Participant selection for the Amman Message

The choice for Prince Ghazi to lead the dialogue is telling. First and foremost, he was the King's special advisor and personal envoy, and from the Hashemite family. Consequently, the King could count on his loyalty, and the initiative could lean on the Hashemite legitimacy in religious matters. The Prince was a "highly respected Islamic scholar"[525], who emphasized the tolerant face of Islam and the value of interfaith communication.[526] At the same time, the King would later emphasize he was also recognized as a scholar within the Western-oriented community, as he holds a PhD from Cambridge University.[527]

Unlike other dialogue initiatives in Jordan, there is no public record listing the other

519 https://www.ammanmessage.com Last accessed 13 May 2021
520 Gartenstein-Ross, 2008
521 'Our last best chance', by Abdullah II, p.357
522 Markiewicz 2017:20
523 Browers, 2011:944
524 H.R.H. Prince Ghazi bin Muhammad bin Talal, "Introduction," in True Islam and the Islamic Consensus on the Amman Message (Amman, 2006), p. xxxiv; Gartenstein-Ross, 2010:13
525 Abdullah II 2012:257
526 Interview with Prince Ghazi by Prof. Tamara Sonn, 23 January 2012. Accessible at www.oxfordislamicstudies.com - last accessed 9 May 2018.
527 'Our last best chance', by Abdullah II, p. 355

members of the initiative. They are not mentioned in the final document itself, either. King Abdullah refers to them as "a group of leading Islamic scholars in Jordan" [528], and Prince Ghazi describes them as "some Jordanian scholars"[529]. Two members found through interviews were Shaykh Tamimi and Abbadi. Both were loyal figures within the Jordanian government and related to the Ministry for Awqaf and Religious Affairs. Shaykh Tamimi, especially, was known for having "deep Islamic thought" and enjoyed respect among different kinds of religious groups in Jordan.[530]

Topic selection

Addressing religious freedom through the ICCPR was not an option, as the treaty had little to no meaning in Jordan.[531] In 2004, the treaty was not officially ratified yet, meaning that it had no legal status at all, and there were no voices calling for ratification.[532] In fact, according to some; "For Jordanians, freedom of religion [through the ICCPR] equals fighting against Islam, and this is completely unacceptable. Human rights are conceived as foreign, European. We should not be taking those into consideration, because they are fighting Islam."[533]

Organizations and individuals working within the framework of international human rights treaties did not advocate implementation of Article 18 either. As one would later comment, "You will never push for that. That is not a topic. [Interviewer: What would happen if you would?] Other than.. I don't know… we will probably be vandalized, we will certainly be outlawed."[534] Another stated; "I don't want to work within the ICCPR. We know the issues here in Jordan much better than some international body. We don't need these fancy international meetings. … The women's rights movement does this with CEDAW, and that is why they do not have any influence! … to hell with these international agreements!"[535]

Despite the fact that the ICCPR's understanding of religious freedom was controversial in Jordan, the treaty did not lead to open opposition either. According to some, it was because most people had no knowledge of the treaty.[536] But also for those who did know of its existence and of Article 18 in particular, the treaty was not perceived as something that would change anything on the ground. They believed other norms were considered more important, such as norms within the tribal community; "I personally believe the [religious]

528 Abdullah II 2012:355
529 Interview with Prince Ghazi by Prof. Tamara Sonn, 23 January 2012. Accessible at www.oxfordislamicstudies.com - last accessed 9 May 2018.
530 Interview 69, (Expert on law) interviews by Violet Benneker, Amman 2017
531 Interview 14 (Expert on law) interviews by Violet Benneker, Amman 2017
532 'Opinions and analysis 2', Walid M. Sadi, *Jordan Times Archives*, 23 June 2003
533 Interview 14 (Expert on law) interviews by Violet Benneker, Amman 2017
534 Interview 21 (International norm entrepreneur), interview by Violet Benneker, Amman 2017
535 Interview 55 (Political actor), interview by Violet Benneker, Amman 2017
536 Interview 76 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017; Interview 69 (Expert on law), interview by Violet Benneker, Amman 2017; Interview 37 (Political actor), interview by Violet Benneker, Amman 2017.

balance was maintained not because we have super laws, but because of tribal law. Let's take an example. If you go to the desert, people do not have the hierarchy of the cities. They have their own law, they have their own code of conduct, their own code of… social codes, let's say. And everybody respects that. If you receive a guest, they call it the guest of God [regardless of the religion]. That means he is sacred."[537]

Moreover, conversion was considered a taboo, and it was expected that people would not be looking to convert anyway; "[a convert] will be declared dead. […] It was never applied in Jordan [by the state], but it might be applied by his own family. They will decide to kill him, because according to Islam you cannot leave Islam. You cannot convert to a different religion. […] We have a very moderate state that does not apply this law. Practically speaking. But families would apply it.[538]

Discussing religious freedom from within Arab-Islamic norms, instead of the ICCPR, made more sense, even to the liberals in Jordan who in principle would agree with the ICCPR's norms; "We can only talk about religious freedom from an Islamic perspective, using the Islamic discourse. This is why the Amman Message was possible, and nothing else."[539] And, "We have to play on their playground when it comes to religious freedom."[540]

The sermon of 9 November 2004 addressed several communities at the same time. It touched upon relations between Muslims, but also the relations between Muslims and other religions. The sermon emphasized that the core values of Islam are compassion, mutual respect, tolerance, acceptance and freedom of religion,[541] and started with the quote that is often used to demonstrate that tolerance of other groups and religions is at the heart of Islam; "In the Name of God, the Merciful, the Compassionate. Peace and blessings upon His chosen Prophet, and upon his household, his noble blessed companions, and upon all the messengers and prophets. God Almighty has said: 'O humankind! We created you from a male and female, and made you into peoples and tribes that you may know each other. Truly the most honored of you before God is the most pious of you. (49:13)'." The first part, referring to "all the messengers and prophets" acknowledges Jesus Christ as a prophet in Islam. The second part is often interpreted as God's intention for different groups and religions to meet and accept each other.

Furthermore, the sermon emphasized how much Muslims share with believers of other religions; "Together, these are principles that provide common ground for the followers of religions and [different] groups of people. That is because the origin of divine religions is one, and Muslims believe in all Messengers of God and do not differentiate between any of

537 Interview 12 (Expert on religion), interview by Violet Benneker, Amman 2017
538 Interview 12 (Expert on religion), interview by Violet Benneker, Amman 2017
539 Interview 14 (Expert on law) interviews by Violet Benneker, Amman 2017
540 Interview 55 (Political actor), interview by Violet Benneker, Amman 2017
541 Browers, 2011:945

them. Denying the message of any one of them is a deviation from Islam. This establishes a wide platform for the believers of [different] religions to meet the other upon common ground, for the service of human society." Finally, the sermon asserted that "Islam honors every human being, regardless of his color, race or religion", and that "Islam calls for treating others as one desires to be treated. It urges the tolerance and forgiveness that express the nobility of the human being", and calls upon Islam's "noble principles and values that verify the good of humanity, whose foundation is the oneness of the human species, and that people are equal in rights and obligations."

King Abdullah would later introduce the Message by writing that "as all true Islam forbids wanton aggression and terrorism, enjoins freedom of religion, peace, justice and goodwill to non-Muslims, it is also a message of good news, friendship and hope to the world." This message was fully within the Jordanian Hashemite tradition of accepting other (Christian) religions, which the kings before Abdullah had built.[542] In addition, it was not perceived as a Western import and was connected to existing Arab-Islamic norms. The Arab-Islamic freedom to worship is usually described as a "mosaic" of different religions and ethnicities living in peace with the Sunni Arab majority.[543]

However, this version of religious freedom was the subject of much discussion within the Arab-Islamic community itself. It was not something everyone agreed with. Salafi scholars, in particular, contested whether the Amman Message had the right understanding of the concept. For instance, Shaykh Abdel Mohsen al-Abbad, an eminent Salafi scholar in Medina, commented with regard to the Message that "as for saying that all religions … are all valid and true and equal, this is the most invalid and repellent of statements."[544] Salafist author Abu Mo'adal Tahir commented that "this Message consisted of many and big deviations that revoke the principles of the nation of Islam. … it stated that… it is necessary to honour human beings regardless of their faith!".[545] The Saudi professor of Islamic law, Rabee' al Mudali, critiqued the Message because it "incorporates a call for the unity and brotherhood of religions and brotherliness and affection among the followers of religions, [and] equality of religions".[546] Abu Mohammad Al-Maqdisi, who is considered the Jordanian founding father of Jihadi-Salafism, wrote the pamphlet 'The Amman Message: A Correction of Concepts'. In it, he stated that since the Amman Message considered Muslims and non-believers equal, it was clear "that those who wrote the Amman Message do not understand the true nature of Islam".[547]

But even though not all within the Arab-Islamic community agreed on the content of the

542 Browers, 2011
543 Gutkowski, 2016:216
544 Al-Shalabi, 2017:141
545 Al-Shalabi, 2017:140
546 Al-Shalabi, 2017:141
547 Al-Shalabi, 2017:142

Message, King Abdullah and Prince Ghazi wanted to make it a recognized and legitimate law within that community. When Shaykh Tamimi presented the Amman Message for the first time, Prince Ghazi knew it would not be "sufficient in itself" to gain real legitimacy or authority within Jordan or the Arab-Islamic international community.[548] Therefore, shortly after its release, the Prince advised the King to have the Message ratified under Islamic law.[549] There is not one leading authority within Islam that can declare new rules or norms. Instead, the Message needed to gain universal acceptance under leading Islamic scholars from different Islamic schools for it to be considered ratified.[550]

Prince Ghazi therefore filtered the Message down to three questions all scholars might agree upon: (i) Who is a Muslim? (ii) Is it permissible to declare someone an apostate? (iii) Who has the authority to issue a fatwa? This filtering down meant significant parts of the original sermon were left out;[551] "the Amman message seems to be one of strategic silences in regard to points on which consensus is not possible."[552] Notably, the three questions only focused on religious freedom within the Muslim community, by trying to outline who should be considered a Muslim and who an apostate. The rights of other religions within Islam, which formed a considerable part of the original sermon, were left out. The more controversial topics of religious freedom, too, which could not be included in the sermon, were not addressed in the three questions either. For instance, the question of whether it is permissible to declare someone an apostate does not touch upon whether a Muslim has the right to become an apostate or atheist or is allowed to convert to another religion if he or she so desires, and without being punished. The Amman Message discussed religious freedom, but that was considered something very different from the right to convert; "[religious freedom] literally means freedom for worship. That the Christians can go to the church to pray, and Muslims can go to the mosque to pray. That does not mean that you can convert. Socially speaking, [people] do not believe in that. Not as many believe in that, that is. [Interviewer: being that… conversion is an option?] Well, that religious freedom is in that sense *freedom*."[553]

Participant selection for the Amman Message's Three Points

The three questions that were filtered from the original sermon were sent to 24 leading Islamic scholars from the four main schools of Sunni Islamic jurisprudence (Hanafi, Maliki, Shafi and Hanbali), and the two main Shi'a schools (Jafari and Zaidi), the Ibadhi school (a movement dominant in Oman) and the Thahiri scholars. On the whole, these were all scholars with "towering reputations" within the Muslim community, which would ensure

548 Interview with Prince Ghazi by Prof. Tamara Sonn, 23 January 2012. Accessible at www.oxfordislamicstudies.com - last accessed 9 May 2018.
549 Markiewicz, 2017:24
550 Markiewicz, 2017:25
551 Interview 55, (Political actor), interview by Violet Benneker, Amman 2017; Gutkowski, 2016
552 Browers, 2011:945; Gartenstein-Ross, 2008
553 Interview 12 (Expert on religion), interview by Violet Benneker, Amman 2017

the legitimacy of the outcome in the Muslim community.[554]

Sending it out to scholars from both Sunni and Shi'a schools demonstrates the intention to counter the 'takfir' practices from Jihadi-Salafists, who considered Shi'as apostates.[555] In addition to excluding these Salafist groups, other sects or groups of Muslims were not invited either to provide an answer to the three questions. It is likely that the identity of these groups - such as the Alawites and the Ahmadis - as Muslim was too contested.[556]

Acceptance and rejection

On 4 July 2005, after the answers were collected, King Abdullah and Prince Ghazi invited two hundred Muslim scholars from fifty countries including Saudi Arabia, Iran, Turkey and Egypt, to a conference in Jordan's capital Amman.[557] The careful condensing of the original sermon into three questions and selection of the scholars to answer them turned out to be effective strategies to make sure at least a part of the Amman Message could be broadly accepted, and thus ratified in Islamic law. By 6 July, all participants of the conference in Amman had agreed on what, from that moment onwards, was called 'the Three Points of the Amman Message': (i) a Muslim is someone who adheres to one of the four Sunni schools of Islamic jurisprudence, one of two Shi'i schools, or the Ibadi, Thahiri or Ash'ari schools of Islamic jurisprudence, Islamic mysticism (Sufism) or 'true' Salafism; (ii) Any person who adheres to any of these schools of law cannot be declared *kafir* (an apostate); (iii) Only qualified muftis may issue fatwas and only within the interpretative boundaries of the eight *madhahib* (schools of jurisprudence).

The answers to the three questions effectively meant that the freedom to practice their religion was guaranteed for Muslims belonging to the Islamic schools named in the First Point. The freedom to practice religion for some of the smaller schools or sects is not covered in the first point. However, the second point allows for tolerance towards these communities, because communities who accept the articles of faith and the five pillars of Islam cannot be called apostates.[558]

Despite, or more likely because of, the fact that this seems a strong watering down of the original sermon, it resulted in widespread acceptance after the conference by the leaders of the Arab-Islamic community. The Three Points were again ratified in the September of that year by a conference in Mecca, and the following November by two conferences in Kuwait and Jordan. In December, the Organization of the Islamic Conference (OIC) did the same. The Three Points continued to garner signatures all through the following year.

554 Gartenstein-Ross, 2008:18
555 Wagemakers, 2016; Gartenstein-Ross, 2008:14
556 Browers, 2011:945; Gartenstein-Ross, 2008:14-15
557 'Our last best chance', by Abdullah II, p. 356
558 Browers, 2011:946

By July 2006, the Three Points had been signed by 552 scholars and political leaders.[559] It became "widely cited by the political elite in the Arab region as evidence of the tolerant and peaceful character of Islam."[560]

As well as gaining approval from within the Arab-Islamic community, the Message was also praised by states from the Western-oriented international community. For instance, the US Department of State Report on International Religious Freedom of 2006 reports on the Message and the conference with approval. The US Embassy in Jordan funded at least one of the conferences held on the Amman Message in 2005.[561] The EU funded the spreading of the Amman Message within Jordan and the Arab-Islamic community.[562]

Only the ICCPR Committee remained critical. Jordan's country report to the Committee listed the Amman Message as proof of its compliance with Article 18.[563] In response, the Committee reiterated "its concern at the restrictions on freedom of religion, including the consequences of apostasy from Islam such as denial of inheritance, and the non-recognition of the Baha'i faith (Art. 18). The Committee reiterates its 1994 recommendation that the State party should take further measures to guarantee freedom of religion." [564]

Domestically, the Amman Message did not meet with significant opposition from anyone other than the Jihadi-Salafists. Allegedly, the Muslim Brotherhood was suspicious at first. Yet, when the Message was ratified by an increasing number of Islamic scholars and leaders, they also became willing to support it. According to Prince Ghazi, after "a controversial period" the Jordanian Brotherhood issued a statement on 12 June 2006 that affirmed their adherence to the Amman Message and its Three Points.[565]

Maintaining the status quo of compliance through the Amman Message

The Three Points of the Amman Message were ratified as Islamic law on 6 July 2005 and had gained acceptance from most communities after that, including the Arab-Islamic and Western-oriented community, even though the ICCPR Committee remained critical. The next steps were, among others, "to introduce it through pragmatic and institutional means" into national legislation, and to "mak[e] it part of the training of mosque Imams and mak[e] it included in their sermons."[566]

559 http://ammanmessage.com/grand-list-of-endorsements-of-the-amman-message-and-its-three-points Last accessed 13 May 2021
560 Browers, 2011:943
561 US State Department report – Jordan, 2006
562 For instance, leaflets and brochures available at the University of Jordan and the Royal Institute for Interfaith Studies are funded by the EU, as are workshops on the Amman Message in Jordan (Mads Nørgaard-Larsen, "Workshop seeks promotion of Amman Message in civil society", *Jordan Times*, August 14, 2012, Jordan Times Paper Archive in Amman)
563 ICCPR/C/JOR/2009
564 ICCPR/JOR/CO/4
565 https://ammanmessage.com/introduction/11/ Last accessed 23 June 2018
566 http://ammanmessage.com/frequently-asked-questions/#10 Last accessed 23 June 2018.

In practice, this meant much of the legislative status quo of Jordan could be maintained. Muslims from the different schools already had the freedom to worship and practice their religion. The non-violent, so-called 'quietist' Salafis were given that freedom too, as they were now considered 'true' Salafists from the government's point of view.[567]

As the Three Points had not addressed relations with other religions or conversion, it was also possible to maintain that legislative status quo. Despite the ICCPR Committee's criticism of the restrictions to religious freedom in Jordan, it seems that the elaborate praise by the states in the Western-international community of Jordan's commitment to religious freedom as displayed by the Amman Message, was sufficient for the Committee's concerns to be ignored.

The Amman Message also provided the Jordanian decision-makers with a framework to crack down on Jihadi-Salafists without being accused of attacking Islam or Salafism, or joining the American side in its War on Terror or the 'clash of civilizations'. That crackdown came after 9 November 2005, when Jordan experienced the largest terrorist attack ever on its soil. In an attack on three big hotels in Amman, the suicide bombers killed 60 and injured many more. The attack was claimed by Al-Qaeda in Iraq, that was led by the Jordanian Jihadi-Salafist Al-Zarqawi.

Some of the measures taken after the bombings could be described as decreasing religious freedom. Yet, these measures were fully in line with what was now the understanding of religious freedom as outlined in the Amman Message and its Three Points. Moreover, these measures seem to have been aimed at protecting that understanding of religious freedom. For example, government passed a law that year that made sure that sermons and classes in mosques were controlled by the government, in order to make sure no inflammatory language, for example against different types of Muslims, was used. All Muslim imams and teachers needed written approval from the Ministry of Religious Affairs for their trainings and sermons.[568] The Amman Message's programme had already encouraged governments to interfere in such religious practices, by stating that governments needed to make it "part of the training of mosque imams and mak[e] it included in their sermons."[569]

Another example is the law that was approved in 2006, which sought to make sure that only state-appointed councils could issue fatwas, and to make it illegal to criticize these fatwahs. The Third Point of the Amman Message had already limited the legality of the issuing of fatwas, by stating that only "qualified muftis may issue fatwas and only within the interpretative boundaries of the eight *madhahib* (schools of jurisprudence)." The state-appointed councils adhered to both requirements.

567 Wagemakers, 2016:235-255
568 US Department of State, Jordan Country Report on Human Rights Practices 2006
569 http://ammanmessage.com/frequently-asked-questions/ Last accessed 23 June 2018.

These two laws were adopted in order to curb the influence of the Jihadi-Salafist agenda, and that larger-scale strategy was not in contradiction with the overall Amman Message either. The Amman Message had made the Jihadi-Salafist legitimation of their violent activities illegal, by stating that any person who adheres to any of the identified Islamic schools could not be declared *kafir*. [570] Moreover, the answer to the first question 'who is a Muslim', allowed for a distinction to be made between "moderate Salafi Islamic thought" and Jihadi-Salafists. Or, as the official Amman Message's Three Points state, "it is neither possible nor permissible to declare whosoever subscribes to *true* [emphasis added] Salafi thought an apostate."[571] Consequently, the government could step up repression of Jihadi-Salafists, but at the same time co-opt the peaceful, or so-called 'quietist' Salafis to become "part of the regime's efforts to spread and promote a 'moderate' type of Islam".[572] Or, as Lieutenant-general Husayn al-Majali as head of General Security stated; "We would like to distinguish between the peaceful Salafi trend [and violent Salafis]. There are many [of the former], like Shaykh al-Halabi. We have great respect for him and his group and their loyalty to the Hashemite leadership, to the ruler".[573] The government's clear separation of these groups was emphasized even more when the leading quietist Salafi in Jordan, 'Ali Al-Halabi, was invited to give a sermon in the presence of the King, right after the terrorist attacks by Jihadi-Salafists.[574]

In short, the Amman Message made it possible for the government to tackle the growing influence and support of the Jihadi-Salafists.[575] Religious freedom within Jordanian mosques decreased as a result, yet without it appearing as un-Islamic to domestic and Arab-Islamic communities. At the same time, it provided the government with a framework that allowed it to maintain its existing restrictions on religious freedom that the ICCPR Committee had pointed out, without appearing to the Jordanian Christian communities and the Western-oriented international community as being against religious freedom.

In the years following its publication, The Amman Message was used to organize many international interfaith meetings and initiatives, which greatly benefitted Jordan's reputation on religious freedom within the Western-oriented community. [576] Instead of demanding more religious freedom or more reform, maintaining the status quo was considered by the Western-oriented international community to be an accomplishment in itself. Projects and speeches on the Amman Message were given on a continuous basis, and received support, funding and approval from the Western international community. For example, the Message was actively used in programmes on religious freedom paid for by the EU,

570 Wagemakers 2016:235
571 http://ammanmessage.com/the-three-points-of-the-amman-message-v-2/ Last accessed 19 June 2018.
572 Wagemakers, 2016:235
573 Wagemakers, 2016:235
574 Wagemakers, 2016:235-255
575 Abu Rumman & Shteiwi, 2018:27
576 See, for instance, the 2005 'Amman Interfaith Message', the 2007 Muslim-Christian initiative 'A Common Word' and the 2010 'UN Interfaith Harmony Week' as initiated by King Abdullah.

not only in Jordan and the Arab-Islamic community, but also in Europe itself.[577] Faith-based organizations, such as the Royal Institute for Interfaith Studies, established under the patronage of the Jordanian Prince El Hassan bin Talal, developed international trainings and outreach initiatives.[578] In 2014, the Amman Message was praised by the UN Special Rapporteur on Freedom of Religion or Belief Heiner Bielefeldt, who commended "the Government of Jordan for its commitment to religious diversity in the country and within the broader Arab region" and described the country as a safe haven of religious moderation in a volatile region.[579] In the report of his mission to Jordan in 2014, he writes that Jordanians "acknowledged and appreciated Jordan's role as a voice of religious moderation in the region, as evidenced in the 'Amman message' of 2004 … , which presents Islam as a religion of open-mindedness that promotes amicable relations with adherents of other faiths."[580]

6.3 Maintaining the status quo of religious freedom: 2011-2017

While there was considerable international praise for the Amman Message and Jordan's perceived commitment to religious freedom within the Western-oriented international community, discussions within the other communities on religious freedom were far from over. In the Arab-Islamic and Jordanian communities, discussions on religious freedom and particularly on the role of religion in the Jordanian state further intensified during the Arab Spring and its violent aftermath in the region.[581]

Ibn 'Abd al-Khaliq, an influential political Salafist writer, stated; "generally, the Islamic peoples want Islam and the Islamic *sharī'a*", yet they are ruled by governments that enforced or [still] enforce rules and laws that clash with Islam. There's no question that an effort should be made to amend these laws so that they become Islamically legitimate."[582] In 2013, Islamists in parliament tried and failed to push a bill to harmonize Jordanian legislation with Sharia law.[583] These developments led to such anxiety among the Christian minorities that some started to leave Jordan.[584]

As the following section demonstrates, King Abdullah responded by attempting to maintain the legislative status quo, but not through initiating another political dialogue to make compliance

577 Rula Samain, "Inter-faith project institute embarks on project to promote Amman Message: Arab world, Europe targeted with effort", *Jordan Times*, January 13, 2013, Jordan Times Paper Archive in Amman
578 See, for instance, http://www.riifs.org/ar/Home Last accessed 17 April 2021.
579 A/HRC/25/58/Add.2, p.1
580 A/HRC/25/58/Add.2, p.1
581 Wagemakers, 2016
582 Wagemakers, 2016:314
583 David Schenker, "Down and out in Amman: The rise and fall of the Jordanian Muslim Brotherhood" *Foreign Affairs*, October 1, 2013
584 Rula Samain, "Christian emigration: mildest in Jordan vis-à-vis the region, but worrying enough", *Jordan Times*, January 8, 2011, Jordan Times Paper Archive in Amman

possible.[585] Instead, he did so by writing so-called 'discussion papers', heavily regulating the public debate, and repressing those criticising Islam as well as radical Islamists. The dialogues that were initiated in Jordan as a response to the domestic protests described in Chapter 5, never discussed religious freedom. Moreover, none of the evidence indicates that the King's discussion papers were a result of a political dialogue initiated in response to demands made by the Western-oriented community. First of all, there was no committee of political actors or representatives of different communities involved that were meant to discuss legislation and come to a common understanding. Instead, these papers were written and signed by the King only. There was no decision-making process with the aim of making a legislative change in either Jordanian or Islamic law possible or acceptable, in order to avoid sanctioning by the Western-oriented international community. Instead, the papers were meant to "encourage debate about our progress as a nation", and did not aim for or achieve legislative change or renewed policies or commitments on religious tolerance or freedom.[586]

The debate on the civil state

As in previous years, the ICCPR was not used at all in the King's attempts to maintain the status quo. Instead, the national debate became centred around the concept of creating a 'civil' or 'civic' state.[587] This term had been used extensively during and after the Arab Spring by both Islamists and secularists in countries across the Arab-Islamic community, such as Egypt and Tunisia.[588]

Even though the King officially encouraged this debate,[589] not everyone could freely participate in it. The state carefully regulated who was allowed to participate and with which message.[590] Individuals who insulted Islam, or who touched upon other "sensitive issues" were actively repressed through press gag orders.[591] For example, the writer Nahed Hattar was arrested for "insulting religion" after he posted a cartoon of the Prophet Mohammed on his Facebook page.

585 When the Arab Spring protests hit Jordan, King Abdullah announced the formation of two committees; one was to discuss a new electoral law, and the other a new constitution, which is discussed in Chapter 5. This project has not found evidence that either of these committees discussed a change in religious freedom, which is why they are not discussed in this chapter. However, there was a very strong presence of Islamists demanding Islam be used as the basis for the state across the region during the Arab Spring. Therefore, it is seems likely that religion as a matter of the state was discussed, but that it is much harder to find proof of this given that political demands of Islamists and especially Salafists are considered a security threat by the Jordanian government. At the same time, it remains a possibility that the Constitutional Committee did not discuss demands to use Islam as the basis for the state, because the Islamic identity and nature of the state was already enshrined in Article 2 of the Jordanian Constitution, which reads: "The people of Jordan form a part of the Arab Nation" and "Islam is the religion of the state", and the legitimacy of Sharia law and courts was also already captured by Articles 104, 105 and 106 of the Constitution.

586 'Our journey to forge our path toward democracy' King Abdullah II, Accessible via https://kingabdullah.jo/en/discussion-papers/our-journey-forge-our-path-towards-democracy, Last accessed 25 May 2018

587 Interview 21 (International norm entrepreneur), interview by Violet Benneker, Amman 2017

588 Larbi Sadiki, 'Civic Islamism: The Brotherhood and Ennahdha: A new political trend of Islamism has taken hold since the Arab Spring – one that is inclusive and moderate.' 15 November 2011, *Al Jazeera*.

589 'Our journey to forge our path toward democracy' King Abdullah II, Accessible via https://kingabdullah.jo/en/discussion-papers/our-journey-forge-our-path-towards-democracy, Last accessed 25 May 2018

590 Interview 44 (Political analyst), interviews by Violet Benneker, Amman 2017, The Hague 2018; Freedom House, *Freedom in the World: Jordan*, 2016, 2017; U.S. Department of State, *Human Rights Reports: Jordan* 2015, 2016, 2017

591 Human Rights Watch Country Report: Jordan 2016

He was later murdered on the steps of a court house by a Jordanian extremist.[592]

Those seen as advocating more extremist versions of Islam were also actively repressed. One of those movements was the Muslim Brotherhood. In 2015, deputy leader Zaki Bani Irsheid was jailed and a further crackdown on the movement continued throughout that year.[593] By the time of the election in September 2016, Zaki Bani Irsheid, who had by then been released, had changed tactics significantly: "Now is the time for us to evolve from an Islamist movement to a national, inclusive movement that speaks for the aspirations of all Jordanians" he stated, "We needed to change in order to survive." Election banners called for "reform" and "renaissance of the homeland, dignity for the citizens". The movement no longer advocated the aligning of national legislation with Sharia law, and had for the first time selected four Christian candidates to run on their list.[594]

Other organizations and groups who were allowed to participate were, for instance, the Royal Aal Al-Bayt Institute. This institute was closely aligned with the government's agenda on religious freedom, and had also cooperated in spreading the Amman Message. They held a conference on what a "modern, viable and sustainable Islamic state enterprise" should look like.[595] The Al-Quds Centre organized a conference to discuss the place of Christians in Arab countries, urging government "to implement political reforms granting Christians fully-fledged citizenship to put an end to discrimination."[596] Even some women's rights organizations became involved in the discussion on the civil state; "we will hold workshops on secular ideologies that would counter takfirist and extremist thoughts. … we strongly believe that it is of utmost importance to explain these concepts that would eventually help in establishing a civil state."[597]

Yet, the organization that would come to dominate the discussion on the civil state was the Ma'an movement, which was most active in the months running up to the September 2016 elections.[598] Though Ma'an was threatened by some Jordanian groups, they were able to

592 'Suspect in Hattar's murder identified' 25 September 2016, *Jordan Times Archive*
593 'Muslim Brotherhood leader sentenced to 1.5 years in jail' 15 February 2015, *Jordan Times Archive*; 'Muslim Brotherhood choices' Daoub Kuttab, 29 April 2015, *Jordan Times Archive*; 'The King and the Islamists' https://www.foreignaffairs.com/articles/jordan/2016-05-03/king-and-islamists Last accessed 30 May 2018; Muslim Brotherhood to sue unlicensed group for failure to vacate offices' 15 July 2015, *Jordan Times Archive*'; 'Authorities close more Muslim Brotherhood offices, others to follow', 14 April 2016, *Jordan Times Archive*.
594 https://www.washingtonpost.com/gdpr-consent/?destination=%2fworld%2fmiddle_east%2fa-rebranded-muslim-brotherhood-attempts-a-comeback-in-jordan%2f2016%2f09%2f19%2fb9be80a6-7deb-11e6-ad0e-ab0d12c779b1_story.html%3futm_term%3d.1d2236aa3bca&utm_term=.1d2236aa3bca Last accessed April 16 2021.
595 "A modern, viable and sustainable Islamic state enterprise", *Jordan Times*, August 22, 2013, Jordan Times Paper Archive in Amman
596 Elisa Oddone, "Scholars call for full citizenship rights for Christians across region: Participants at Amman conference discuss future of Arab Christians", *Jordan Times*, September 30, 2013, Jordan Times Paper Archive in Amman
597 Rana Husseini, "Jordanian Women's Union to fight for establishing civil state", *Jordan Times*, September 25, 2014, Jordan Times Digital Archive in Amman
598 "Young Islamists and the civil state in Jordan", *Jordan Times*, April 11, 2018, Jordan Times online; Ryan, 2018:144

advocate their program. Considering that many other attempts to form political parties or movements had been and were actively frustrated by the government, this is remarkable. It seems likely that the government at a minimum tolerated the party for its role in countering the Islamists' influence, since it was allowed to run in the elections the way it did.

Ma'an wanted to advocate for full religious freedom and equal treatment of all religious communities by separating religion from the state. Yet, the movement was very careful in developing its strategy. They kept an eye not only on the state's red lines, but also on the taboos within Jordanian society. They kept track of cultural and religious red lines as well as those of the state, and of how their messages came across within the Jordanian population, by carrying out research.[599] So, while the movement was in favor of secularism, they did not advocate for it directly. Other topics, too, such as the Islamic identity of the state that is enshrined in Article 2 of the constitution, were considered completely off bounds and could not be raised in the campaign or after it. [600]

Other topics were reframed. As a result, the Ma'an movement did not talk about freedom of religion. Instead, they argued that the civil state is like Medina, where Christians and Jews and Muslims had the freedom to pray and practice their religion.[601] As the movement adapted its strategies to the state's and society's red lines, it fully remained within the normative status quo and the Amman Message. Still, the movement was often accused of apostasy and was seen as a threat by religious extremists.[602]

In the election of 2016, the Ma'An movement won two seats in the third district of Amman. This district is generally considered a liberal district with a considerable number of Christians. Khaled Ramadan won an open list seat, while Kais Zayadin won a Christian quota seat. Yet, even though Ma'an were now present in parliament, there was still little opportunity to advocate any legislative change. This is first and foremost due to the very limited power that parliament has in the Jordanian political system. In addition, this is because Ma'an was met with a lot of resistance from other members of parliament, such as the Muslim Brotherhood, and from other communities outside of parliament.[603]

The Muslim Brotherhood won 10 seats. Considering the electoral system in Jordan was designed in such a way to ensure the traditional supporters of the monarchy won the most seats, this can be considered a win, and a show of support from the population after the government crackdown on the movement. The other parties that won the most seats were government-approved (moderate) Islamists as well, such as the ZamZam initiative (5 seats)

599 Interview 43 (Political actor), interview by Violet Benneker, Amman 2017
600 Interview 15 (Political actor), interview by Violet Benneker, Amman 2017
601 Interview 15 (Political actor), interview by Violet Benneker, Amman 2017
602 Interview 56 (Political actor), interview by Violet Benneker, Amman 2017
603 Interview 15 (Political actor) interview by Violet Benneker, Amman 2017

and the Wasat party (7 seats).[604]

Right after the elections, the King published his sixth discussion paper called 'Rule of Law and the Civil State'. It directly addressed the Islamist and secular sides of the discussion on the civil state: "the term 'civil state' has been actively debated recently. Some even contested the concept, which seems to be the result of confusion and lack of understanding for what it really stands for." The King defined the civil state as based within the rule of law, and as based within Islam. Consequently, "the reform-minded people find what they like in that one part, and the Islamists like the other part", but it does not result in actual reform.[605]

The first part describes the civil state as one that "is governed by a constitution and laws that apply to all citizens without exception. … It is a state built on peace, tolerance and harmony and is distinguished for respecting and safeguarding pluralism, respecting different opinions and protecting all members of the community, regardless of their religious or intellectual affiliation. … It guarantees religious freedom for its citizens and enroots tolerance and respect for others in society." It then continues with the 'second version' of the civil state, which is based within Islamic understandings: "These principles constitute the essence of a civil state. This is not synonymous with a secular state. In a civil state, religion is a key contributor to the value system and social norms. Religion is also enshrined in our constitution." The paper continues by outlining how the civil state is indeed built on Islam; "in the conducts of Prophet Mohammad, peace be upon him, we find a great inspiring example in the Medina Charter after he migrated from Mecca to Medina, with the aim of regulating the relationship between all sects and groups in the city. … it established respect and protection of religious freedom and worship, social solidarity, protecting non-Muslim citizens and non-Muslim minorities as well as exchanging counsel and acts of charity among Muslims, people of monotheistic faiths and others."

Most actors interviewed agreed with the King's idea of a civil state, including Islamists, tribal leaders and liberals.[606] This had the result that "everyone finds something they agree on when they talk about the civil state. But they all talk about something else."[607]

6.4 Conclusion

The quantitative study in Chapter 3 found that international vulnerability did not mediate the negative correlation between the presence of communities whose norms are a

604 Ryan, 2018:145
605 Interview 55 (Political actor), interview by Violet Benneker, Amman 2017
606 Interview 34 (Jordanian religious norm entrepreneur), interview by Violet Benneker, Amman 2017; Interview 25 (Political actor), interview by Violet Benneker, Amman 2017; Interview 15 (Political actor), interview by Violet Benneker, Amman 2017; Interview 20 (Political actor), interview by Violet Benneker, Amman 2017
607 Interview 55, (Political actor), interview by Violet Benneker, Amman 2017

mismatch with human rights and levels of compliance. Even more so, it suggested that international vulnerability was negatively correlated with compliance. States that were dependent on US or EU aid were more likely to repress religious freedom. Following those findings, a more explorative approach was necessary in this chapter to investigate whether a political dialogue was actually triggered by the scope conditions of vulnerability and norm monitoring (P3a), and if so, in which way this dialogue was different (P4a) to such an extent that it led to a decrease in compliance, rather than to an increase (P5a).

As the evidence on the post 9/11 period and the Amman Message suggests, a political dialogue was still triggered by conditions of international vulnerability and intensified norm monitoring by the Western-oriented international community, which supports Proposition 3a. However, there is a considerable difference in the nature of the scope conditions and the normative mismatch. The mismatch was not necessarily due to a Western-oriented international community that demanded an increase in religious freedom for all, while other communities had the opposite normative preferences. Rather, powerful states in the Western-oriented international community, most notably the US, demanded religious freedom for some non-Islamic religions, and repression of some other Islamic groups. Though these states were thus not demanding full compliance with Article 18, there is still a mismatch; Arab-Islamic and some domestic communities believed religious freedom for non-Islamic religions should decrease, and rejected US demands on repression for Islamic groups. Consequently, a political dialogue to respond to pressure from the Western-oriented international community was still necessary, but not to make an increase in compliance possible. Rather, it was necessary to maintain acceptance of the normative status quo of religious freedom for some non-Islamic religions, and to legitimize repression of other extremist Islamist groups from within an Arab-Islamic framework. In addition, the finding that the dialogue was also used to legitimize repression of extremist groups suggests that international vulnerability and norm monitoring do not always create the need to move towards compliance, but a need to move towards any preferences – whichever those are – of the Western-oriented community. This means the framework of the political dialogue is useful not only to understand human rights implementation, but can potentially also be valuable to analyse other types of international pressure on national decision-making processes.

It was expected that there would be very little to no space to create consensus on compliance with Article 18 (P4a), in particular due to the strong taboos on some topics of religious freedom, such as on conversion or atheism. That is indeed what the evidence discussed in this chapter suggests, and particularly the processes of participant and topic selection make the very limited space to create consensus on compliance visible.

At the start of the development of the Amman Message, there was still some space to select

the King's cousin and other loyal Jordanian statesmen to work on the sermon. However, as the Jordanian decision-makers wanted the Amman Message to be taken seriously within the religious Jordanian and Arab-Islamic communities, options to select participants became extremely limited, and needed to follow the rules of Islamic law ratification. There was also extremely limited space to select the topics of the dialogue. The Amman Message and its Three Points were discussed from within a religious framework, even though they were commissioned by the King and had clear political aims. It was not possible to discuss religious freedom from within a human rights framework, and it was also never a topic for political committees such as Jordan First or the National Agenda as discussed in Chapter 5. Keeping within the religious framework meant it was not possible to go beyond many of the red lines. While the Amman Message sermon was already limited to discussing religious freedom for other, mostly Christian, communities, even this had to be dropped during the rest of the process and development of the Three Points.

No evidence suggests that the dialogue on the Amman Message created a backlash effect similar to the one against the CEDAW described in Chapter 5. However, criticizing anything related to religion or the royal family was not allowed in Jordan. In addition, especially the Islamists and Salafists experienced strong repression from the Jordanian government. Consequently, it remains difficult to judge whether the lack of backlash was because of this repression, or because the dialogue created a consensus among the different communities. However, also in off-the-record interviews and in informal talks, the impression was never given that communities other than the Jihadi-Salafist community had actually wanted to mobilize against the Amman Message. Therefore, it is probable that the outcome of the dialogue indeed demonstrated a consensus that was acceptable to most communities, and therefore enabled the maintaining of part of the normative status quo on religious freedom and decreasing it for specific Islamic communities (P5a).

In the period after the Arab Spring, Jordan remained vulnerable to the Western-oriented international community, but the intensified monitoring that occurred during the US War on Terror decreased. In addition, Jordan received continued praise on its Amman Message and this strengthened its reputation as a state committed to religious freedom amid an increasingly destabilizing environment. As is in line with Proposition 3b, a political dialogue did not occur. However, it is difficult to judge whether this is due to a change in the scope condition of monitoring, or because of the Amman Message's success in affirming Jordan's reputation on religious freedom with the Western-oriented international community, or both. Still, some Jordanian and Arab-Islamic communities actively questioned and contested the Islamic character and legislation of the Jordanian state. Jordanian decision-makers responded with repression of these extremist groups, as well as repression of those considered to be criticising religion and Islam specifically. In addition, the King encouraged

(and heavily regulated) a debate on the civil state, a term much used during and after the Arab Spring by both Islamists and secularists. This debate largely stayed within the lines of normative status quo in Jordan, and the King eventually framed the term as both Islamic and secular at the same time. The debate on the civil state did not lead to a political dialogue and did not result in any constitutional, legislative or policy changes on religious freedom (P3b).

Discussion and implications

7.1 Introduction

This project proposed a new model to explain patchworks of compliance: the political dialogue model. It demonstrated that state decision-makers can rely on political dialogues to make decisions on compliance possible that were considered impossible before. In those dialogues, bits and pieces of human rights norms are discussed, accepted, rejected, diluted to fit mismatching norms, or traded for other, sometimes unrelated, laws and policies. Consequently, the political dialogue as a theoretical model allows us to analyse why and how decision-makers mediate between and work with different sets of mismatching norms, how that process can either lead to an accepted move towards compliance or to a backlash effect, and how that results in varying patchworks of compliance.

This chapter compares the two dialogue processes of the CEDAW and the ICCPR in Jordan. It draws lessons and adjusts the political dialogue as a theoretical model accordingly. It updates the model to include the backlash effects that were found in the empirical chapters. It also expands the consensus-creating strategies to include the selection of the platform in which the dialogue takes place, as the empirical evidence indicates this plays an important role in shaping the space to create consensus. It also makes suggestions for further research on political dialogue as a theoretical model.

This chapter also discusses the possibility of using political dialogue as an approach for practitioners who seek to increase compliance with contested human rights. It argues that, when there are mismatches between human rights and other communities' norms, a political dialogue as intervention can support small, but broadly accepted, increases in compliance, and prevent backlash effects against human rights.

7.2 Updating the political dialogue model

The first quantitative probe, presented in Chapter 3, focused on the theorized cause and outcome of the political dialogue model; normative mismatches and compliance with CEDAW Article 7 and ICCPR Article 18. It found a relation between the two for both treaties. This added to the plausibility of a relation between the cause and outcome of the political dialogue model.

In addition, the chapter suggested that an important scope condition of the political dialogue model, international vulnerability, could play a different role in that relation for each of the treaties. For the CEDAW, the relation between the presence of communities adhering to norms that are a mismatch with CEDAW Article 7 and compliance was mediated by

international vulnerability. To be more specific, the influence of normative mismatches on levels of compliance was weaker for states with great international vulnerability. Or, put differently, states that are dependent on the US or EU for economic resources were more likely to have higher levels of compliance with CEDAW Article 7, even if their domestic communities adhered to norms that are a mismatch with that article. Vice versa, in states that did not have that vulnerability, the influence of normative mismatches on compliance was stronger. Such states had lower levels of compliance, which seemed to be more in line with their domestic communities' norms.

This was not the case for the ICCPR. On the contrary, international vulnerability seemed to decrease, rather than increase, the likelihood of compliance with Article 18 on religious freedom. That is to say, states that are dependent on the US or EU for economic resources were less likely to comply with ICCPR Article 18. That is the exact opposite of the role of international vulnerability for the CEDAW. These findings demonstrated the need for a qualitative study to, first, investigate whether the relation between the theorized cause and outcome was indeed mediated by political dialogues, but also, second, in which way that theorized political dialogue was different for the two treaties.

The following qualitative chapters zoomed in on the processes for each treaty in Jordan. For both treaties, the evidence added to the plausibility of the political dialogue model, as such dialogues were found and influenced levels of compliance. Yet, the chapters also highlighted notable differences between the dialogues. Whereas in the case of the CEDAW, the dialogue was aimed at increasing compliance, for the ICCPR it was mostly used to maintain the normative status quo on religious freedom for some groups, and to decrease it for others, for example, by bringing some Islamic religious practices entirely under state control. The following paragraphs will reflect further on these divergent findings, and shed more light on how differences in the nature of the scope conditions and the presence of communities whose norms mismatch with human rights can explain this difference.

First of all, comparing the dialogues for the two treaties suggests that international vulnerability and human rights monitoring are in themselves not always sufficient to understand motivations for states to comply with human rights norms. Instead, these conditions should be analysed together with specific demands made by leading states from within an international community, which in the case of this project were the US. While the US demands were to a significant extent aligned with the CEDAW and the CEDAW monitoring bodies, that was not the case for the ICCPR. The US demanded protection of religious freedom for some communities, repression of extremist religious groups, and a clear choice for the US side in the 'War on Terror', instead of full compliance with Article 18. Though this still led to the need to create consensus, as especially the latter two demands

were strongly contested, it did change the aim of the dialogue. In the case of the ICCPR, the aim was, alongside safeguarding religious freedom for some, decreasing religious freedom for others. The importance of individual states' demands in the international community, in addition to the influence of UN monitoring bodies, is in line with arguments made by recent studies that suggest states are particularly concerned about avoiding punishment by the leading partners of the international community they are most vulnerable to.[608]

Another main difference between the dialogues of the two treaties is the context in which they took place. Women's rights norms were discussed within political committees, while religious freedom norms were discussed within a distinctly religious and Islamic context. In principle, even though both dialogues are bound to normative constraints which limit the range of possible outcomes, political committees take place fully within the state's mandate. That is different for a religious context. In the latter, the Amman Message eventually needed to be approved by Islamic scholars and committees in order for it to lead to a change in Islamic law, most of which were beyond direct state control. Consequently, the range of possible outcomes was further limited. This means that the context, or platform, that is chosen in which the dialogue takes place, and therefore the type of legislative change that can be sought, strongly influences the outcome of a dialogue. Moreover, as the type of platform has such a strong effect, this also suggests that it could also be used as a deliberate consensus-creating strategy.

In addition, the choice for the platform also determines which communities have the most influence in shaping decision-makers' space to create consensus. As Jordan First and the National Agenda were political committees which worked fully within the mandate of the state, the traditional veto-communities were the most influential. In both committees, the space to create consensus and to increase compliance was limited the most by the tribes. The Amman Message dialogue, on the other hand, was most strongly influenced by domestic and Arab-Islamic religious groups and communities, such as (Jihadi-)Salafists and the different Islamic schools of legislation. The tribes did not seem to have had the same kind of veto power within this religious context as they had had in the political context.

These findings on the importance of selecting the platform for the dialogue, can be used to further expand the table as presented in Chapter 2. When vulnerability to other communities is low, and the related norms are not highly specified, the selection of the platform may be strategically used to increase compliance. However, when vulnerability is high and the related norms are very highly specified, decision-makers have very limited to no freedom to choose the platform for the dialogue themselves. In addition, there is a sequence to these strategies; the choice for the platform precedes and strongly influences which participants can be selected. It is only after those two steps that the remaining strategies be used.

608 Terman & Voeten, 2017

Table 7: Space to create consensus with available strategies - expanded

		Vulnerability to other communities	
		Low	High
Norm specificity	Low	(A) Considerable space to use different strategies to create consensus on compliance. Possible strategies include: (1) Platform selection (2) Participant selection (3) Topic selection (4) Persuasion (5) Reverberation (6) Side payments	(B) Moderate space to use different strategies to create consensus on compliance. Possible strategies include: (4) Persuasion (5) Reverberation (6) Side payments *(1-3) determined by preferences of other communities.*
	High	(C) Moderate space to use different strategies to create consensus on compliance. Possible strategy: (2) Participation selection *(1, 3-6) restricted and determined by highly specified norms.*	(D) Very limited space to use different strategies to create consensus on compliance. *(1-6) restricted and determined by other communities and highly specified norms.*

Furthermore, these findings can be used to further adjust the pathway that was presented in Chapter 2; the first strategy, platform selection, fits in Part 1 of the pathway, in which the dialogue is initiated. This also means that the path-shaping conditions already have an influence in Part 1, rather than only Part 2. These changes are visible in the updated pathway, as displayed in Table 8 on the next page.

Finally, the backlash effect was not theorized as part of the expectations in the pathway in Chapter 2. Nonetheless, it proved a crucial element and outcome of political dialogues in the case studies on the CEDAW and ICCPR dialogues in Jordan. Comparing the two chapters sheds more light on the conditions under which backlash effects develop, and when these effects force state leaders to go back on their decision. Consequently, the role of the backlash effect in political dialogues can be further theorized for each step of the pathway.

At the very start of the pathway (cause), a backlash effect can develop when decision-makers increase compliance without starting a dialogue first. Once a dialogue is initiated (part 1), communities can mobilize outside of the dialogue if they are left out of the dialogue and they feel the process somehow violates their own norms. Also, the participants in the dialogue can start to resist the dialogue and its outcome when they feel their norms are being violated during attempts to create consensus (part 2) or when decision-makers are not able to create consensus and still decide to move towards compliance (part 3). Finally, decision-makers can succeed in creating consensus, but still choose a compliance option that falls outside of the consensus (outcome), which will also lead to resistance

Table 8: The pathway of the political dialogue, including backlash effects

	Cause	Part 1	Part 2	Part 3	Outcome
Theory	Presence of normative mismatch	Decision-makers start political dialogue	Decision-makers identify options for/create consensus	Decision-makers succeed in creating consensus	Patchwork compliance: Decision-makers move towards limited increase in range or degree of compliance
Operationalization	Presence of communities adhering to norms that lead to opposing behavioral outcomes as compared to human rights norms	Decision-makers call for a committee to discuss legislative or policy reform Consensus-creating strategy: -platform selection	Decision-makers use consensus-creating strategies: -participant selection -topic selection -persuasion -reverberation -side payments	Participants accept options previously not known or considered unacceptable	Decision-makers implement new legislation or policies in line with the human rights treaty
	Scope conditions	Path-shaping conditions			
	(i) Vulnerability to international human rights community (ii) Human rights monitoring	(i) Vulnerability to communities adhering to norms that are a mismatch with human rights (ii) Other communities' norm specificity			
		Backlash effect can occur when			
		Decision-makers move towards compliance without starting a dialogue at all	Concerned communities do not feel sufficiently represented in dialogue and/or Participants feel their norms are being violated or not accounted for in the use of the consensus-creating strategies	Decision-makers move towards compliance without succeeding in creating consensus	Decision-makers choose compliance option outside of the created consensus

and a backlash effect against the decision. Subsequently, the pathway as proposed in the theoretical chapter of this project (Chapter 2), can be further extended by including these moments at which a backlash effect can develop.

7.3 Future research on the political dialogue model

The political dialogue model is developed to help understand the decision-making process on compliance. The current project is by no means a complete and conclusive study on political dialogue or compliance. Some interesting paths were beyond the scope of this research, and the results of the project also uncovered new areas and topics that should be investigated further.

Quantitative research can test further the propositions on the extent to which mismatching norms affect compliance, and the role of the scope conditions in that relation. Particular attention should be paid to the influence of the presence of international communities advocating norms that are a mismatch with human rights, by developing new indicators that measure these communities' shared norms, their monitoring systems, and states' vulnerabilities to these other international communities. These new variables can be included in a quantitative model that factors in time, as that allows for a better understanding of the influence of different sets of norms on human rights compliance as scope conditions and norms change over the years. In addition, these larger datasets will allow for the testing of the central relation while controlling for other factors that influence compliance, and for testing three-way-interaction effects. Especially testing whether the influence of domestic norms is mediated by international vulnerability and domestic vulnerability or vulnerability to second international communities in such a three-way interaction effect will shed further important light on the workings of the scope conditions.

Future qualitative research should focus on, first and foremost, testing the political dialogue model in different contexts. It was developed to understand human rights decision-making beyond the single case of Jordan. Even though the quantitative analysis has indicated that there is a relation between domestic norms, compliance with monitored human rights and international vulnerability in more countries over the world, the political dialogue model itself has only been investigated in one country. It should be tested on other typical cases, especially in other world regions. In particular, such studies could further analyse the role of other international communities in the political dialogue.

Furthermore, studying the political dialogue model from a comparative approach, in which two typical cases with very different domestic regimes are selected, is very useful in order

to better understand the role of the path-shaping conditions and the space decision-makers have to create consensus in dialogues. These studies could also zoom in on the strategies to create consensus, and uncover more of the different methods used by decision-makers. Finally, such a comparative approach with two typical cases would also be an effective method to further investigate this project's findings on the role of backlash effects in political dialogues. In particular the conditions under which these effects develop, as well as the conditions under which they can force leaders to change their decisions, are highly relevant and timely topics for future research.

In addition to studying typical cases, future studies should also focus on outliers; countries that have similar levels on normative mismatches and that are internationally vulnerable, but that either exceed or fall behind on the expected level of compliance with international human rights norms. Such studies would be especially useful to specify the conditions under which state leaders use consensus-creating strategies (if at all) in favor of or against compliance.

Finally, both quantitative and qualitative studies in future should focus on more different types of human rights norms. The findings of this project clearly indicate that the goal of political dialogues is different for the CEDAW and the ICCPR. While for the CEDAW an increase in compliance became possible, for the ICCPR maintenance of a part of the normative status quo was the highest attainable goal. It is possible that this difference can be explained by the characteristics of communities and their norms, but also by the nature of the international norms. Future studies should therefore seek to test the framework on many different human rights norms, including the treaties that are ratified almost universally, such as the Convention on the Rights of the Child (CRC) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) as well as treaties that are less accepted internationally, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).

7.4 Political dialogue as an approach for practitioners

This project has proposed political dialogue as a theoretical model to understand the decision-making processes on contested human rights. Building on those insights, the following paragraphs develop political dialogue as an approach for practitioners to increase compliance with contested human rights.

This is not without controversy. Many approaches to human rights advocacy aim for full compliance, or work on the assumption that human rights are at least considered

legitimate by the communities they are supposed to protect. Alternatively, the political dialogue approach accepts that full compliance cannot be achieved, as consensus needs to be found between the different communities with norms that mismatch with human rights. Nonetheless, such an approach is timely and necessary. First and foremost, because the international human rights community is of decreasing strength and has a decreasing willingness to enforce and advocate human rights norms. In turn, communities adhering to norms that are a mismatch with human rights, at both the domestic and the international level, are becoming more vocal, and have gained prominence and political influence. This means that it is more relevant than ever to understand compliance with human rights as a highly contested political decision-making process involving communities that can reject human rights as the legitimate framework for their protection.

Political dialogue as an approach to advance compliance can be of particular interest to human rights advocacy organizations and NGOs working on political dialogue, as well as state decision-makers who want to advance human rights as part of their foreign and domestic policy agenda. For these practitioners, using political dialogue as an approach could prove to be a fruitful way forward in an increasingly human rights-hostile world, and helps them to prevent creating backlash effects against human rights.

Human rights advocacy organizations can expand their advocacy toolbox with the political dialogue approach. While in some cases their more traditional strategies, such as naming-and-shaming, might be the most useful instrument to force states to comply, in others, a more careful political dialogue approach might provide better results when it comes to ensuring human rights protections in policy and legislation. First of all, the current global developments mean that many of the traditional strategies, and in particular naming-and-shaming, will no longer be effective under certain circumstances. This strategy relies on the assumption that states are actually shamed when their human rights practices are exposed to the general public or to other (allied) states. However, when this state is most vulnerable to a different community with norms that are a mismatch human rights, such shaming might as well have the opposite effect and become a badge of honor.

Understanding human rights compliance as the outcome of political dialogues instead, thus means a change of advocacy strategy under the right scope conditions. As the ethical or moral 'rightness' of human rights is no longer accepted at face value, the focus might need to be laid on seeking the topics on which consensus is possible. This does mean giving up the idea of reaching full compliance, but it would significantly lower chances of even more harmful backlash effects, and might make (small) moves towards human rights still possible in an increasingly human rights-hostile world.

For human rights organizations, it would also mean building coalitions that were previously unthinkable, but that have now become necessary. One way is the building of coalitions – or at least making a start on communication – between human rights movements and those (parts of) conservative groups with which some common ground can be found. Such coalitions can then effectively influence and shape the political dialogues on compliance by setting the agenda, and showing the way forward. One recent example from Jordan are the CEDAW-oriented elites and the women's currents in the conservative and Islamist movements. These different groups are often seen as having opposing goals, and as being representatives of normatively mismatching communities. However, the very recent victory in Jordan on changing Article 308,[609] which allowed sexual assault perpetrators to marry their victims, demonstrates that improvements in women's lives are still possible when coalitions are built across the traditional divides, and representatives of normatively mismatching communities are willing to push for change on a shared grievance, whether or not it is labelled as a UN human right.

For NGOs working on political dialogue, the political dialogue as approach that is proposed here provides a useful opportunity to understand better, first, the conditions under which dialogue on contested political reform and human rights becomes possible. For such organizations, it is valuable to increase the understanding of the political circumstances of the countries they work in, and in particular the conditions under which significant steps towards reform and compliance can be made – and when not. This will enable much more efficient programming, as it provides a realistic view of when there are opportunities to instigate a dialogue over contested norms, but also when such attempts might be in vain.

Furthermore, the political dialogue approach proposed here can increase the effectiveness of their programmes by highlighting the conditions that determine what is possible to be discussed within these dialogues. Vulnerability to all the different domestic and international communities, their demands and their norms' specificity, plays a major role in shaping the space in which contested norms, including those on political and human rights reforms, can be discussed and negotiated over. Carefully analysing these conditions also helps to avoid creating a backlash effect against the topics under discussion.

Finally, this approach can also support more strategic programming, as it provides an overview of the relative strength of specific communities at each potential dialogue table. This also means that deliberate and strategic choices can be made to support marginalized domestic groups to gain more strength and increase decision-makers' vulnerability to them. In this way, NGOs specialized in facilitating political dialogues could support these communities or even help create their place at the table.

609 Rana Husseini, "In historic vote, House abolishes controversial Article 308" *Jordan Times*, August 1, 2017. http://jordantimes.com/news/local/historic-vote-house-abolishes-controversial-article-308 Last accessed 13 May 2021

For state decision-makers who want to advocate human rights in their domestic and foreign policy and practices, the approach can also useful. If anything, this project is a demonstration of their influence. The evidence collected here indicates that in all instances when the international community or strategic allies stepped up their monitoring of women's rights or religious freedom, there was a significant change in behavior visible with the Jordanian decision-makers. It made a political dialogue on these human rights possible and led to improved human rights outcomes; the increase in women's political participation, and the continued protection of religious freedom for some religious groups in a context in which these were significantly threatened.

At the same time, the findings of this project should also be alarming to many of these decision-makers. While their pressure does create incentives for compliance, it can also result in the exact opposite. The backlash effects we have seen occurring in Jordan were to a large extent attributable to international pressure, and have had serious consequences for citizens' dismissal of human rights as a legitimate framework ensuring their protection.

This warning should also be taken to heart by those decision-makers that are genuinely interested in implementing human rights in their own domestic contexts. While it is emphasized that outside pressure to comply might help in getting the process started and setting up a political dialogue, this pressure can also backfire in the long run and result in the full rejection of those rights. Instead, using the political dialogue approach to further human rights can increase compliance, while avoiding backlash effects. It advocates analysing the conditions under which the dialogue takes places, and a subsequent careful use of the different consensus-creating strategies that make an increase in compliance acceptable to the communities involved. This could prove to be the most sustainable method of improving human rights protection in the years to come.

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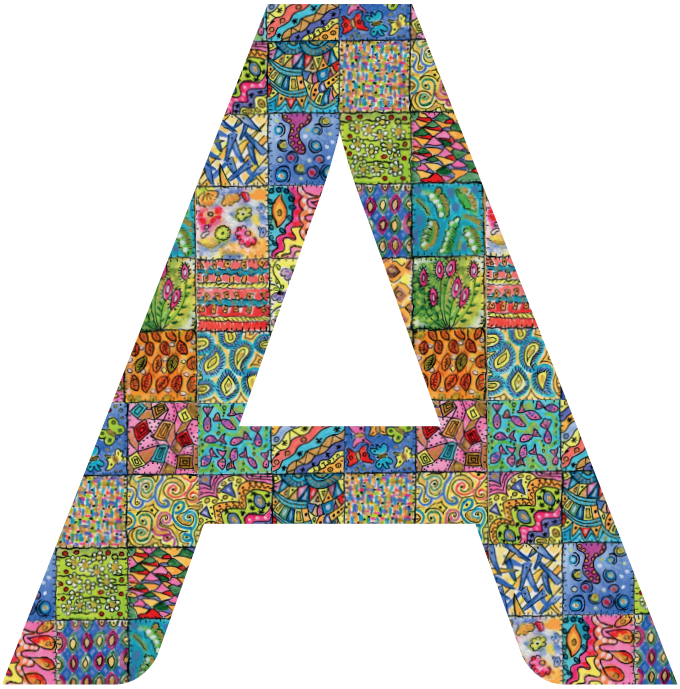


APPENDIX

Appendix A: Scope conditions coding

Country	Trades more than average with US/EU (>37% of GDP)	Aid dependency			
Algeria	1	1	Malaysia	1	0
Argentina	0	0	Mali	0	1
Armenia	0	1	Mexico	1	1
Australia	0	0	Moldova	1	1
Azerbaijan	1	1	Morocco	1	1
Belarus	0	1	Netherlands	1	0
Brazil	0	0	New Zealand	0	0
Bulgaria	1	0	Nigeria	0	1
Burkina Faso	0	1	Norway	1	0
Canada	1	0	Pakistan	0	1
Chile	0	1	Peru	0	1
China	0	0	Philippines	0	1
Colombia	0	1	Poland	1	0
Cyprus	0	0	Qatar	0	0
Ecuador	1	1	Romania	1	0
Egypt	0	1	Russia	0	0
Estonia	1	0	Rwanda	0	1
Ethiopia	0	1	Singapore	1	0
Finland	1	0	Slovenia	1	0
France	0	0	South Africa	0	1
Georgia	0	1	South Korea	0	0
Germany	1	0	Spain	0	0
Ghana	0	1	Sweden	1	0
Guatemala	0	1	Switzerland	1	0
Hungary	1	0	Thailand	0	1
India	0	1	Trinidad and Tobago	1	0
Indonesia	0	1	Tunisia	1	1
Iran	0	1	Turkey	0	1
Iraq	1	1	Ukraine	1	1
Italy	0	0	United States	0	0
Japan	0	0	Uruguay	0	1
Jordan	1	1	Uzbekistan	0	1
Kazakhstan	1	1	Vietnam	0	1
Kuwait	0	0	Yemen	0	1
Kyrgyzstan	0	1	Zambia	0	1
Lebanon	0	1	Zimbabwe	0	1
Libya	1	1			

(0) Not present, (1) Present

Appendix B: Comparing sample means with global means

In these tests, the means of the scope conditions and other factors known to influence levels of compliance, such as economic development and civil war, were compared to the mean of those variables in all states.[610] These tests suggest that the WVS sample is not significantly different on any of those indicators, as is visible in the table below.

Variables	Mean sample	Mean total[611]	Mean difference
Men make better political leaders than women do (%)	49	-	-
Do not trust people with a different religion (%)	56	-	-
GDP (in billions $)	599	267	332
GDP per capita ($)	15131	15146	15
GDP growth (%)	4.3	4.4	0.1
Population size (millions)	74	35	39
Population growth (%)	1.4	1.6	0.2
Level of democracy (1-10)	6.9	6.7	0.2
Regime durability	31	26	5
Total commitments received from donor countries (in millions $)	1033	644	389
Trade (% of GDP)	83	94	11
Religious fractionalization (0-1)	0.4	0.4	0.0
Magnitude civil war	0.09	0.10	0.01
Magnitude international war	0.10	.06	0.04

**Significantly different at 95%*

610 Davenport, 2007
611 Means are calculated from all countries in the Quality of Government Dataset, 2008 (N>150).

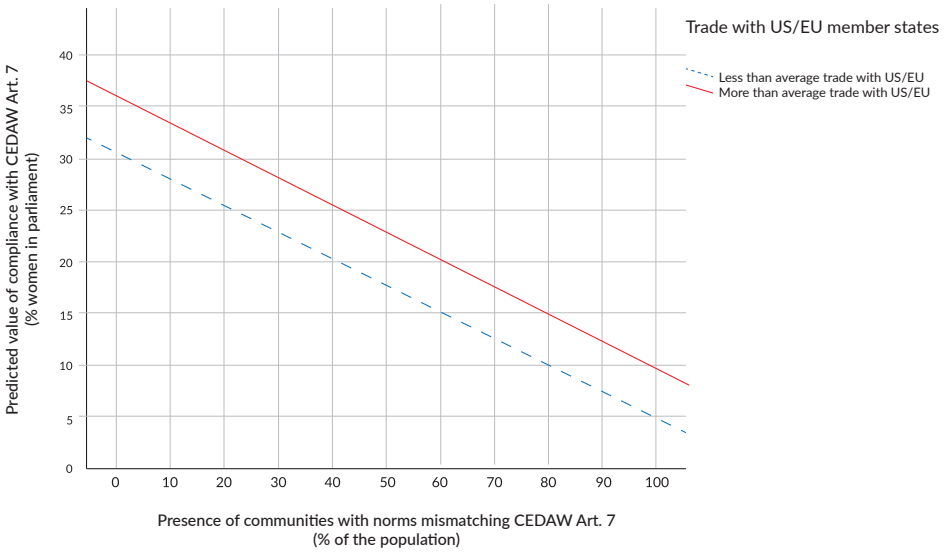
Appendix C: Additional CEDAW models

- CEDAW Models 1 to 5 including control variable for US/EU member states.

	Model 1 B (SE)	Model 2 B (SE)	Model 3 B (SE)	Model 4 B (SE)	Model 5 B (SE)
Presence of communities mismatching with CEDAW Art.7 (0-100%)	-0.27 (0.05)***	-0.30 (0.053)***	-0.28 (0.14)	-0.68 (0.17)***	-0.70 (0.23)**
More than average trade with US/EU (1)		5.43 (2.09)*	5.42 (2.11)*	4.83 (2.05)*	4.83 (2.06)*
Received aid from US/EU (1)		3.86 (2.56)	3.93 (2.60)	3.67 (2.50)	3.63 (2.53)
Mismatching norms * Trade			-0.02 (0.09)		0.01 (0.09)
Mismatching norms * Aid				0.24 (0.10)*	0.24 (0.11)*
US/EU member state (1)		-0.32 (3.19)	-0.30 (3.21)	-2.27 (3.21)	-2.30 (3.24)
Constant	33.71 (2.44)***	21.67 (7.51)**	20.21 (10.27)	41.80 (11.50)**	42.91 (14.21)**

*N=72 Notes: All tests are two-tailed. *Significant at 5%; **Significant at 1% ***Significant at 0.1%*

- Visualization of the non-significant interaction effect between trade and mismatching norms on compliance with CEDAW Article 7



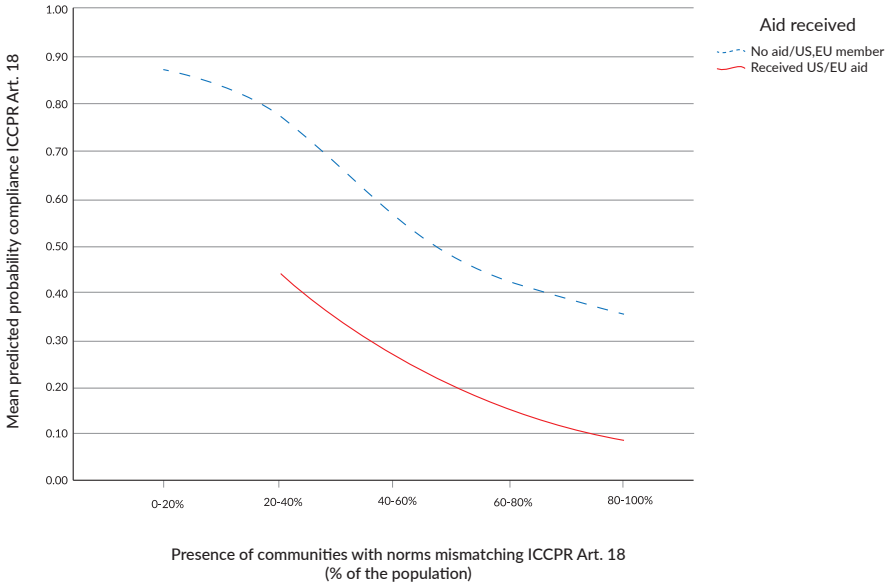
Appendix D: Additional ICCPR models

- ICCPR Models 1 to 5 including control variable US/EU member states

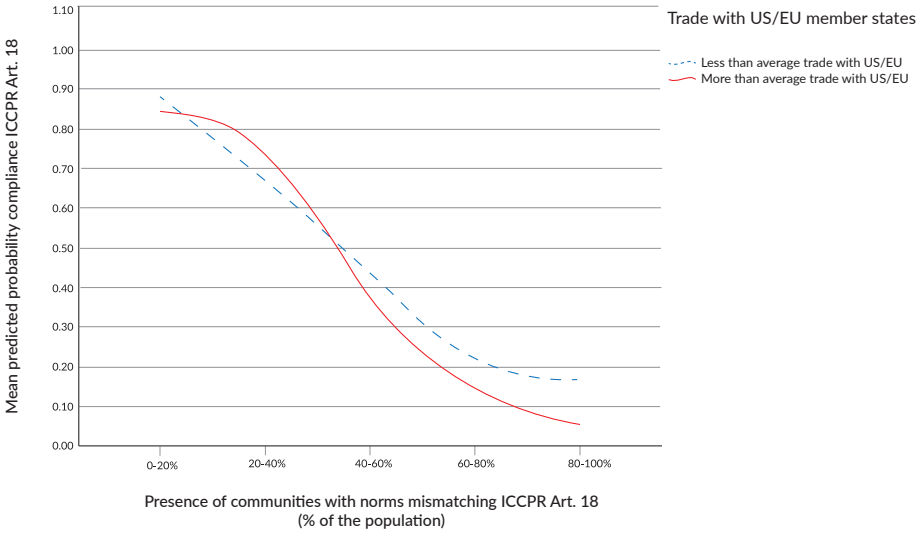
	Model 1 Odds (SE)	Model 2 Odds (SE)	Model 3 Odds (SE)	Model 4 Odds (SE)	Model 5 Odds (SE)
Presence of communities mismatching with ICCPR Art.18 (0-100%)	0.95 (0.02)***	0.96 (0.02)*	0.97 (0.02)	0.97 (0.02)	0.98 (0.03)
More than average trade with US/EU (1)		0.55 (0.64)	0.51 (0.68)	0.58 (0.66)	0.52 (0.69)
Received aid from US/EU (1)		0.21 (0.75)*	0.25 (077)	0.23 (0.75)	0.25 (0.78)*
Mismatching norms * Trade			0.97 (0.04)		0.99 (0.04)
Mismatching norms * Aid				0.98 (0.04)	0.97 (0.04)
US/EU member state		1.05 (0.85)	1.04 (0.88)	0.99 (0.04)	1.04 (0.86)
Constant	11.10 (0.89)**	14.40 (1.08)*	8.81 (1.39)	11.26 (1.30)	4.31 (0.04)

*N = 71 Notes: All tests are two-tailed. *Significant at 5%; **Significant at 1% ***Significant at 0.1%*

- Visualization of the non-significant interaction effect of aid with mismatching norms on compliance with ICCPR Art.18



- Visualization of non-significant interaction effect of mismatching norms with trade with US/EU member states on compliance with ICCPR Art. 18



Appendix E: Qualitative data sources

CEDAW Committee documents
https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx

CEDAW/C/JOR/1 (November 10, 1997)
CEDAW/C/JOR/2 (October 26, 1999)
CEDAW/C/SR. 448 (July 27, 2000)
CEDAW/C/SR. 449 (July 27, 2000)
CEDAW/C/SR./456 (August 2, 2001)

CEDAW/C/JOR/3-4 (March 10, 2006)
CEDAW/C/JOR/Q/4 (February 27, 2007)
CEDAW/C/JOR/Q/4/Add.1 (May 17, 2007)
CEDAW/C/JOR/CO/4 (August 10, 2007)

CEDAW/C/JOR/5 (September 24, 2010)
CEDAW/C/JOR/Q/5 (August 10, 2011)
CEDAW/C/JOR/Q/5/Add.1 (January 18, 2012)
CEDAW/C/JOR/CO/5 (March 9, 2012)
CEDAW/C/JOR/CO/5 (March 23, 2012)

CEDAW/C/JOR/6 (June 25, 2015)
CEDAW/C/JOR/Q/6 (July 29, 2016)
CEDAW/C/JOR/Q/Add.1 (January 11, 2017)
CEDAW/C/JOR/CO/6 (March 9, 2017)

ICCPR Committee documents
https://www.ohchr.org/EN/HRBodies/ICCPR/Pages/ICCPRIndex.aspx

ICCPR/C/76/Add.1 (January 18, 1993) (state party report)
ICCPR/C/79/Add.35 (August 10, 1994) (Comments)

ICCPR/C/JOR/3 (March 30, 2009) (state party report)
ICCPR/C/JOR/Q/4 (April 12, 2010) (LoIs)
ICCPR/C/JOR/Q/4/Add.1 (September 16, 2010)
ICCPR/C/JOR/CO/4 (November 18, 2010)

ICCPR/C/JOR/5 (July 27, 2016)

ICCPR/C/JOR/Q/5 (April 11, 2017)
ICCPR/C/JOR/Q/5/Add.1 (August 21, 2017)
ICCPR/C/JOR/CO/5 (December 4, 2017)

Special Rapporteur on Freedom of Religion or Belief documents
https://www.ohchr.org/EN/Issues/FreedomReligion/Pages/FreedomReligionIndex.aspx

A/HRC/7/10/Add.1 (February 28, 2008)
A/HRC/25/58/Add.2 (January 27, 2014)
A/HRC/25/58/Add.4 (February 17, 2014) [translated from Arabic]

Universal Periodic Review Documents
https://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx

A/HRC/WG.6/4/JOR/2 (November 21, 2008)
A/HRC/WG.6/4/JOR/3 (November 19, 2008)
A/HRC/WG.6/4/JOR/1 (February 9, 2009)
'Questions in Advance' (UPR review round February 11, 2009)
'Questions in Advance Add.1' (UPR review round February 11, 2009)
'Questions in Advance Add.2' (UPR review round February 11, 2009)
A/HRC/11/29 (May 29, 2009)
A/HRC/11/37 (October 16, 2009)

General comments
ICCPR/C/21/Rev.1/Add.4 (September 27, 1993), http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=8&DocTypeID=11

Other UN documents and reports
G.A/55/38 (August 17, 2000) G.A/55/38 (August 17, 2000)
https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx
Annex VI, Excerpt taken from A/61/38
https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx

UNDP Development Report Jordan, http://www.hdr.undp.org/en/countries/profiles/JOR

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Nederlandse samenvatting

Naleving als lappendeken: Politieke dialogen over omstreden mensenrechtenverdragen
Het is bijzonder moeilijk om een staat te vinden die zich volledig aan mensenrechtenverdragen houdt. Bijna alle staten in de wereld lijken zich te houden aan bepaalde verdragen of artikelen, zich een beetje te houden aan een aantal andere artikelen, en de rest te negeren of zelfs te overtreden. Dit is een patroon dat ik naleving als lappendeken noem. Tot voor kort hadden we geen goede verklaringen voor deze lappendekens, en wisten we niets van de politieke besluitvormingsprocessen die deze creëren.

Deze studie brengt daar verandering in. Het stelt de politieke dialoog als model voor om deze lappendekens goed in kaart te brengen en te verklaren. Dit model helpt ons beter te begrijpen hoe politici en andere beleidsmakers lappendekens creëren, door te laten zien dat ze met hun politieke besluiten een constante middenweg moeten vinden tussen de normen van verschillende internationale en nationale gemeenschappen. Veel staten hebben te maken met gemeenschappen die normatieve voorkeuren hebben die niet overeenkomen met de internationale mensenrechtenverdragen. Deze studie laat zien dat politici en beleidsmakers in deze gevallen niet simpelweg de ene gemeenschap boven de ander verkiezen, maar dat zij politieke dialogen kunnen inzetten om een consensus te genereren tussen de normatieve voorkeuren van de verschillende gemeenschappen. Zo kunnen zij een zo breed mogelijk gedragen besluit maken dat leidt naar betere naleving van een mensenrechtenverdrag.

In zulke dialogen kunnen verschillende onderdelen en artikelen van mensenrechten worden bediscussieerd, geaccepteerd of verworpen, of uit-onderhandeld binnen andere niet-gerelateerde beleidsvoorstellen of wetten. Als politiek leiders en beleidsmakers dat succesvol doen, kan de uitkomst de naleving van het mensenrechtenverdrag verbeteren. Echter, juist omdat het hier om een gevonden consensus tussen verschillende gemeenschappen gaat, zal het niet tot een perfecte of volledige naleving van mensenrechten leiden.

Daarbij leiden deze politieke dialogen niet altijd tot een consensus. Met name wanneer bepaalde gemeenschappen zich niet voldoende vertegenwoordigd voelen in het dialoogproces, of wanneer zij hun normen gemarginaliseerd of overtreden zien worden, kan er een terugslageffect of negatieve reactie tegen mensenrechten ontstaan. Zulke terugslageffecten kunnen het verdere naleven van mensenrechtenverdragen verder bemoeilijken. Ze kunnen leiden tot een verminderde naleving, overtreding, en toekomstige pogingen tot politieke dialogen over naleving sterk compliceren. Deze processen van politieke dialoog en terugslag leiden uiteindelijk naar het patroon van naleving als lappendeken die we in landen overal ter wereld tegenkomen.

Politieke dialogen over omstreden mensenrechten worden echter niet in ieder land of onder iedere omstandigheid georganiseerd. Of politieke actoren de noodzaak zien om een dergelijke dialoog te starten, is sterk afhankelijk van twee noodzakelijke voorwaarden; kwetsbaarheid ten aanzien van de internationale mensenrechtengemeenschap, en een grote mate van controle op het naleven van mensenrechten door diezelfde gemeenschap. Alleen onder die voorwaarden wordt het noodzakelijk voor politieke actoren om een politieke dialoog te starten en een consensus te vinden om naleving te verbeteren, omdat zij druk en sancties van de internationale gemeenschap willen voorkomen. Als deze voorwaarden niet aanwezig zijn, is het bijzonder onwaarschijnlijk dat politieke actoren een politieke dialoog over omstreden mensenrechten starten.

Om de politieke dialoog als model te onderzoeken, analyseert deze studie de implementatie van twee mensenrechtenverdragen; het VN-Vrouwenrechtenverdrag (CEDAW), waarbinnen deze studie zich met name richt op Artikel 7 betreffende het recht van vrouwen op politieke participatie, en het Internationaal Verdrag inzake Burgerrechten en Politieke Rechten (ICCPR), waarbinnen met name gekeken wordt naar Artikel 18 betreffende het recht op religieuze vrijheid.

De studie is opgebouwd uit veel verschillende soorten data en analyses. Het past een kwantitatieve analyse toe, waarin meer dan 70 landen in de wereld worden onderzocht, en een kwalitatieve analyse die richt zich op Jordanië. Er zijn verschillende soorten data verzameld gedurende zeven maanden veldwerk in Amman om te bestuderen hoe politieke dialogen in Jordanië verliepen tussen 1999 en 2017; 59 interviews met voormalig ministers, leiders van politieke dialoogcommissies, en andere politieke betrokkenen en experts; 50 persoonlijke notities en notulen van politieke dialoogcommissies; meer dan 180 Arabische en Engelstalige krantenartikelen, waarvan het grootste gedeelte uit het papieren archief van de Jordan Times; 42 mensenrechtenstudies en rapporten van de mensenrechtencommissies van de Verenigde Naties, het Ministerie van Buitenlandse Zaken van de Verenigde Staten, en Amnesty International; twee biografieën van Jordaanse koningen; en tenslotte verscheidene academische studies over politieke participatie van vrouwen en religieuze vrijheid in Jordanië.

Bevindingen per hoofdstuk

Hoofstuk 2 bespreekt de politieke dialoog als theoretisch model, en presenteert de proposities die centraal staan in de kwantitatieve en kwalitatieve analyses van deze studie. Het laat zien wanneer het nodig wordt voor politieke actoren om dialogen te gebruiken om tot een consensus te komen over de naleving van mensenrechtenverdragen tussen verschillende nationale en internationale gemeenschappen. Dit is afhankelijk van twee

noodzakelijke voorwaarden, die tegelijkertijd aanwezig moeten zijn; kwetsbaarheid ten aanzien van de internationale mensenrechtengemeenschap, en een grote mate van controle op het naleven van mensenrechten door diezelfde gemeenschap. Alleen onder die voorwaarden wordt het noodzakelijk voor politieke actoren om een politieke dialoog te starten en een consensus te vinden om naleving te verbeteren, omdat zij druk en sancties van de internationale gemeenschap willen voorkomen.

De ruimte die politieke actoren hebben om consensus in een politieke dialoog te creëren is vervolgens sterk afhankelijk van twee condities; de mate waarin politieke actoren kwetsbaar zijn naar de andere gemeenschappen die normen hebben die niet overeenkomen met mensenrechtenverdragen, en hoe specifiek die normen zijn. Wanneer politieke actoren niet erg kwetsbaar zijn ten opzichte van zulke gemeenschappen, en de normen zelf ook niet erg specifiek zijn, is er veel ruimte voor politieke actoren om consensus te vinden over naleving van mensenrechten. Er zijn dan verschillende strategieën beschikbaar die zij kunnen inzetten, zoals het selecteren van hervormingsgezinde participanten voor de dialoog, het selectief uitkiezen van onderwerpen die naleving sterk zouden verhogen, overtuiging, het laten lobbyen voor hervorming buiten de dialoog, en het uitruilen van onderwerpen en artikelen om naleving te verbeteren. Echter, wanneer politieke actoren zeer kwetsbaar zijn ten aanzien van gemeenschappen die normen hebben die niet overeenkomen met mensenrechten, en die normen ook nog eens zeer specifiek zijn, zoals taboes, hebben zij bijna geen ruimte in de dialoog om een grote verbetering in het naleven van mensenrechtenverdragen mogelijk te maken.

Het theoretisch model in Hoofstuk 2 laat uiteindelijk zien hoe deze pogingen om een consensus te genereren leidt tot naleving als lappendeken; sommige artikelen worden geïmplementeerd, andere genegeerd of bewust overtreden. Kortom, de strategieën en afwegingen die worden gemaakt in dergelijke politieke dialogen kunnen leiden tot een stap naar betere naleving van mensenrechtenverdragen, maar perfecte naleving zal het nooit worden.

Hoofdstuk 3 richt zich op het onderzoeken van kwantitatieve relaties tussen de oorzaak, de twee noodzakelijke voorwaarden en tenslotte de uitkomst van het theoretisch model zoals gepresenteerd in Hoofstuk 2.

De bevindingen suggereren dat de voorgestelde oorzaak – de aanwezigheid van gemeenschappen die sterk andere normatieve voorkeuren hebben dan de internationale mensenrechtengemeenschap – leidt tot een slechtere naleving van mensenrechtenverdragen. Dit lijkt te gelden voor zowel CEDAW Artikel 7 als ICCPR Artikel 18. Echter, het verder onderzoeken van deze relaties suggereert dat er wel degelijk verschillen bestaan tussen de twee verdragen.

Voor de CEDAW geldt weliswaar dat de aanwezigheid van deze gemeenschappen leidt tot slechtere naleving van Artikel 7, maar ook dat deze relatie sterk afhankelijk is van de noodzakelijke voorwaarde van kwetsbaarheid ten aanzien van de internationale mensenrechtengemeenschap. Wanneer deze kwetsbaarheid hoog is, lijkt de relatie tussen de aanwezigheid van deze nationale gemeenschappen en de slechtere naleving minder sterk te zijn. Of, anders gezegd, het lijkt erop dat staten die afhankelijk zijn van de internationale mensenrechtengemeenschap eerder geneigd zijn naleving van CEDAW Artikel 7 te verhogen, ondanks dat hun nationale gemeenschappen andere normatieve voorkeuren hebben. Het omgekeerde lijkt daarin ook waar; wanneer deze kwetsbaarheid laag is, is de gevonden relatie sterker. Dat betekent dat wanneer staten niet kwetsbaar zijn ten aanzien van de internationale mensenrechtenverdragen, zij dichter bij de normatieve voorkeuren van hun nationale gemeenschappen lijken te blijven.

Dit is niet het geval voor de ICCPR. De bevindingen suggereren hier dat, ongeacht de mate van kwetsbaarheid, een sterke aanwezigheid van nationale gemeenschappen die andere normatieve voorkeuren hebben sterk gecorreleerd is aan slechtere naleving van Artikel 18 betreffende religieuze vrijheid. Daarbij, het lijkt erop dat kwetsbaarheid ten aanzien van de internationale mensenrechtengemeenschap zelfs kan leiden tot verdere verslechtering van het recht op religieuze vrijheid.

Deze opvallende bevindingen worden verder onderzocht in de kwalitatieve hoofdstukken 4, 5 en 6. Hoofdstuk 3 sluit af met het selecteren van Jordanië op basis van de kwantitatieve studie als de meest geschikte casus om de gevonden relaties verder te onderzoeken.

In Hoofdstuk 4 worden de noodzakelijke voorwaarden tot het starten van een politieke dialoog in Jordanië onderzocht, als ook de condities die het proces van de dialoog beïnvloeden. Het start met het bespreken van de eerste jaren van Abdullah II als koning van Jordanië. Het hoofdstuk laat zien dat de Jordaanse kwetsbaarheid naar de internationale mensenrechtengemeenschap hoog was in de jaren vlak na 1999, en dat zowel de Verenigde Naties als de Verenigde Staten de naleving van mensenrechtenverdragen CEDAW Artikel 7 over politieke participatie van vrouwen en ICCPR Artikel 18 over religieuze vrijheid controleerden. Het hoofdstuk bespreekt ook de ruimte die de Jordaanse politieke actoren hadden om consensus te creëren door zich te richten op de twee condities; de Jordaanse kwetsbaarheid naar andere internationale en nationale gemeenschappen met andere normatieve voorkeuren, en de specificiteit van hun normen.

Het hoofdstuk richt zich vervolgens op de veranderingen in de noodzakelijke voorwaarden en condities voor politieke dialoog die plaatsvinden door de tijd heen tot aan 2017. Twee belangrijke tijdspunten worden gevonden waarin deze voorwaarden en condities sterk

veranderen. De eerste is de periode na 9/11, de dag waarop de Twin Towers in de VS werden aangevallen door terroristen, en de tweede is de Arabische lente en haar nasleep.

Hoofdstuk 5 laat zien hoe het theoretisch model van de politieke dialoog, zoals omschreven in Hoofdstuk 2, inderdaad de besluitvorming omtrent de naleving van CEDAW Artikel 7 in Jordanië kan verklaren. Wanneer de noodzakelijke condities van kwetsbaarheid en controle op naleving aanwezig waren, leidden deze tot het starten van een aantal politieke dialogen. Tijdens deze dialogen gebruikten Jordaanse politieke actoren verschillende strategieën om een consensus creëren. Daarmee maakten ze een kleine, maar significante, verbetering in de naleving van de CEDAW mogelijk en acceptabel voor verschillende betrokken Jordaanse gemeenschappen – ook wanneer hun normatieve voorkeuren zeer ver af stonden van de CEDAW.

Het hoofdstuk bespreekt ook een aantal onverwachte maar zeer interessante bevindingen. Het laat zien hoe politieke dialogen ook konden leidden tot sterke terugslageffecten. Met name wanneer de controle en druk vanuit de internationale mensenrechtengemeenschap erg hoog werd om naleving te verbeteren, waren Jordaanse politieke actoren eerder geneigd om de normatieve grenzen en taboes van de verschillende gemeenschappen te overtreden. Zodoende laat dit hoofdstuk zien dat een politieke dialoog om consensus te creëren en naleving te verbeteren het tegenovergestelde effect kan hebben; in plaats van een consensus te creëren, kunnen er sterke terugslageffecten ontstaan. Deze kunnen zelfs leiden tot verslechtering van de naleving, met name wanneer de terugslageffecten plaatsvinden bij nationale gemeenschappen waar politieke actoren kwetsbaar voor zijn.

Hoofdstuk 6 gaat over besluitvorming omtrent ICCPR Artikel 18 in Jordanië. Net zoals in het geval van de CEDAW starten Jordaanse politieke actoren een politieke dialoog als reactie op de aanwezigheid van de noodzakelijke voorwaarden van kwetsbaarheid en controle op naleving van Artikel 18 over religieuze vrijheid. Echter, er zijn belangrijke verschillen. Om te beginnen was het platform voor de dialoog een religieuze, en niet een politieke. Daarnaast was de uitkomst van deze dialoog geheel anders dan die van de dialogen uit Hoofstuk 5. De uitkomst beschermde de religieuze vrijheid van sommige minderheidsgroepen, maar legitimeerde ook de repressie van andere religieuze groepen. Over het geheel genomen resulteerde deze dialoog daarmee in een verslechtering van de naleving van het recht op religieuze vrijheid. Tegelijkertijd leidde deze dialoog niet tot terugslageffecten, en werden de normatieve grenzen en taboes van een aantal gemeenschappen nauwkeurig in de gaten gehouden en niet overtreden.

Hoofdstuk 7 trekt de conclusies uit de bevindingen en bespreekt de gevonden verschillen tussen de dialoogprocessen van de CEDAW en de ICCPR. Het laat met name het belang zien

van de noodzakelijke voorwaarden die ten grondslag liggen aan het starten van een dialoog, als ook de condities van kwetsbaarheid naar andere gemeenschappen en de specificiteit van hun normen voor het verloop van de dialoog. Op basis van deze bespreking wordt het theoretisch model, zoals gepresenteerd in Hoofdstuk 2, verder uitgebouwd. De keuze voor een dialoogplatform wordt als dialoogstrategie toegevoegd. Ook het terugslageffect wordt opgenomen in het model, door de momenten waarop en de redenen waarom deze kan ontstaan verder te theoretiseren. Het hoofdstuk sluit af met aanbevelingen voor beleidsmakers en Ngo's die zich richten op mensenrechten en politieke dialoog.

English summary

Patchwork compliance: Political dialogues about contested human rights

There are very few states in the world, if any, that are in full compliance with human rights norms. Instead, states tend to comply with some articles of a human rights treaty extensively, only up to certain extent with some, and ignore or openly violate others – all at the same time. This is the pattern that this project calls patchwork compliance. Up to now, we have not been able to fully unravel these patchworks of compliance, or clarify the decision-making processes that create them.

This project proposes a political dialogue model to unravel the patchworks of compliance we see in countries around the world. This model helps us to understand how these patchworks are created by political decision-makers, who need to mediate between the mismatching norms of different communities. It demonstrates how and why they do not necessarily choose the norms of one community over the other. Rather, they can rely on political dialogues to create consensus between apparent mismatching norms of the different communities.

In such dialogues, parts of human rights norms are discussed, accepted, rejected, diluted to fit other communities' norms, or traded for other, often unrelated, laws and policies. When successful, such dialogues allow decision-makers to make small increases in compliance with human rights norms. Yet, precisely because the dialogue created consensus between different communities, the outcome will not be full compliance.

Moreover, these political dialogues do not always result in consensus between the different communities. Particularly when communities come to feel they are not sufficiently represented in the dialogue, or their norms are violated, a backlash effect against human rights can develop. Such backlash effects can further complicate decision-makers' compliance choices, lead to decreases in compliance, and make future attempts to increase compliance even more difficult. It is these processes of political dialogue that eventually result in the widely varying patchworks of compliance.

Crucially, political dialogues about contested human rights are not likely to take place in every state or under all circumstances. Instead, whether decision-makers see the need to start such a dialogue is dependent on two scope conditions. First, a state needs to be vulnerable to the international human rights community, and second, its human rights compliance needs to be closely monitored by that community. Such states are more likely to want to avoid pressures or sanctions, and are more likely to need the positive rewards that can come with compliance. A political dialogue then becomes necessary, in order to avoid

sanctions, and to create the consensus between normatively mismatching communities that will allow them to increase compliance.

To understand when and how such political dialogues lead to patchworks of compliance, this study investigated the implementation of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), in particular Article 7 on women's political participation, and the International Covenant on Civil and Political Rights (ICCPR), in particular Article 18 on religious freedom. It relies on a wide range of empirical data. It includes a quantitative analysis of over 70 countries from around the globe. It also includes an elaborate case study of Jordan, relying on 59 interviews with former ministers and other political actors and experts; 50 personal notes and minutes of meetings; over 180 English and Arabic newspaper articles; 42 human rights monitoring reports; two autobiographies by Jordanian kings; and several academic studies on religious freedom and women's political participation in Jordan.

Findings per chapter

Chapter 2 presents the political dialogue model and outlines the central propositions of this project. To understand how decisions on compliance with contested human rights are made, the chapter details how state leaders can shape decision-making processes over human rights compliance in such a way that an outcome becomes possible which is acceptable to the parties at all levels involved, even if their norms are considered to be a mismatch, and how this results in a patchwork of compliance.

The chapter highlights the fact that decision-makers are likely to start a political dialogue when they wish to or see the need to comply with international human rights norms. This is dependent on two scope conditions: vulnerability to the international human rights community, and how often and how extensively a state is evaluated by other members in the community on its compliance record. Under these conditions, a political dialogue becomes necessary for state leaders to be able to move towards compliance, without being berated or punished by other communities whose norms they see as a mismatch with a human rights norm.

The space that decision-makers have to create consensus within that dialogue is again dependent on two path-shaping conditions, which are the state's vulnerability to the other communities involved, and the specificity of their respective norms. When the state is not very vulnerable to other communities, and their norms are not highly specified, the decision-maker can draw on various different strategies to create consensus and increase levels of compliance. These strategies include selecting specific participants, setting a restricted agenda, persuasion, reverberation and side-payments. However, the higher the

state's vulnerability to other communities and the more specified their norms are, the less space decision-makers have to deploy such strategies.

The theoretical model proposed in Chapter 2 outlines how, eventually, the attempts to create consensus through the use of these strategies result in patchwork compliance; decision-makers implement some articles but ignore or intentionally violate others. Consequently, the strategies used and trade-offs made in political dialogues might make human rights compliance acceptable to the different communities involved, but it also renders human rights protection less than perfect.

In Chapter 3, the first two of the propositions are explored in a quantitative study. It focuses on the relation between the cause, scope conditions and outcome of the political dialogue model. These are normative mismatches, compliance with strongly monitored human rights, and international vulnerability respectively. The findings suggest that normative mismatches are significantly correlated with lower levels of compliance. This finding is consistent for both CEDAW Article 7 and ICCPR Article 18. Yet, further probing of that relation also suggests interesting differences between the two treaties.

In the case of the CEDAW, the relation between the presence of communities with norms that are a mismatch with the Treaty's Article 7 and compliance with that Article is mediated by states' international vulnerability. The relation between the presence of such communities and levels of compliance is weaker in states that are vulnerable to the international human rights community. Or, to put it differently, highly vulnerable states seem more willing to increase their level of compliance, despite a mismatch between their domestic communities' norms and human rights. On the other hand, the relation between mismatching norms and compliance is stronger in states that do not have that vulnerability. That is to say, states that are not vulnerable to international human rights pressures seem more likely to abide to their domestic communities' norms instead. In short, these findings suggest that states with a large presence of communities adhering to norms that mismatch with CEDAW Article 7, but that are also very vulnerable to the human rights community, show higher levels of compliance as compared to states that have a similar presence of such communities, but who are not vulnerable.

This is not the case for the ICCPR; regardless of the extent of international vulnerability, a majority presence of communities whose norms are a mismatch with ICCPR Article 18 is correlated with lower levels of compliance. Even more so, it suggests that vulnerability to the international community actually decreases levels of compliance with the ICCPR articles on religious freedom. This stands in stark contrast to the role of international vulnerability when it comes to the CEDAW. This striking finding, and the way in which political dialogue

as an explanatory model can help us understand it, is further explored in the qualitative chapters 4, 5 and 6.

Chapter 3 concludes by selecting the case study of Jordan, as based on the quantitative findings. Jordan is a highly suitable case study to further investigate the workings of the political dialogue model, because there is a considerable presence of communities whose norms are a mismatch with the CEDAW as well the ICCPR. In addition, both scope conditions of the theoretical model are present; Jordan is vulnerable to the international human rights community, and its compliance with the CEDAW and the ICCPR is strongly monitored.

Chapter 4 investigates the presence of the scope conditions that bring about the start of a political dialogue as well as the conditions that shape such a dialogue. It discusses Jordan during the first years of the reign of its current king, King Abdullah II, who ascended to the throne in 1999. It describes Jordan's vulnerability to the international human rights community, as well as the norm monitoring carried out by and demands for compliance made by the respective UN monitoring bodies, as well as the US. It also describes the space Jordanian decision-makers had to create consensus, by discussing Jordan's vulnerability to the Arab-Islamic international community and several domestic communities, and the specificity of their respective norms.

The chapter then moves on to describe the changes in these conditions that occurred over time from the beginning of King Abdullah II's reign up to 2017. It finds that there are two focal points: first, the period after 9/11, the day of the attack on the United States' Twin Towers, and second, the Arab Spring and its aftermath. The chapter concludes with further specified propositions as based on these findings, that are further investigated in the following Chapters 5 and 6.

The findings discussed in Chapter 5 on the CEDAW support the proposed political dialogue model, and demonstrate its usefulness for explaining decisions on compliance. It finds, first of all, that vulnerability to and norm monitoring by the international human rights community have triggered the start of several political dialogues in Jordan. Through the use of different consensus-creating strategies, Jordan's main decision-makers have succeeded in making a small increase in Jordan's level of compliance acceptable to most communities involved. The chapter thus suggests that increasing levels of compliance is possible and can be made acceptable through political dialogues, even if communities whose norms are a mismatch with human rights have a large majority presence.

The chapter also discusses some unexpected but highly interesting findings. It describes when and how political dialogues can also lead to strong backlash effects. Especially in

instances when the pressure to comply from key partners in the human rights community became very strong, Jordanian decision-makers overstepped other communities' red lines during the dialogue. In this way, the chapter demonstrates how the use of the consensus-creating strategies without sufficiently accounting for communities' norms can have the opposite effect: instead of creating consensus, they can cause strong backlash effects. The evidence in this chapter further suggests that these effects can even force state decision-makers to retract their decision, especially when they are very vulnerable to the mobilized communities.

Chapter 6 discusses ICCPR decision-making in Jordan, and sheds light on the similarities, but also the differences suggested by the quantitative analysis between the CEDAW and ICCPR. Also in the case of the ICCPR, Jordanian decision-makers responded to international vulnerability and monitoring by starting a political dialogue. However, the outcome of this dialogue was very different from the CEDAW. It safeguarded the existing religious freedom for some groups, while legitimizing repression of some other religious groups, and therefore in effect resulted in an overall decrease in compliance. However, also in contrast with the CEDAW, the dialogue on religious freedom did not generate a backlash effect, as some important communities' red lines were carefully respected.

Chapter 7 concludes the project and discusses the differences found between the use of dialogue between the CEDAW and the ICCPR. It highlights the importance of the scope conditions as well as path-shaping conditions during political dialogues. It also discusses some of the surprising findings of the empirical chapters, and uses them to further develop the political dialogue as a model to better understand states' decisions on compliance. This includes an expansion of the possible consensus-creating strategies that decision-makers can use. It also further theorizes the role of the backlash effects. Specifically, it proposes a further elaboration of the political dialogue model, by including the moments when a backlash effect can develop and the reasons why it might do so.

Finally, the chapter suggests avenues for future research, and gives policy recommendations for organizations working on political dialogue, human rights NGOs, as well as states aiming to implement or advocate for human rights.

Arabic summary

ملخص: 'الامتثال الجزئي على نمط الترقيع: حوارات سياسية عن حقوق الإنسان المُختلَف عليها'

إن عدد البلدان في العالم التي حققت الامتثال الكامل لمبادئ حقوق الإنسان لهو عددٌ قليلٌ جداً، وقد يكونُ معدوماً. وفي الواقع، تميلُ الدول إلى الامتثال بدرجةٍ كبيرة إلى موادٍ معيَّنة من اتفاقية ما من اتفاقيات حقوق الإنسان، وبدرجةٍ أقل إلى موادٍ أخرى، وتتجاهل بعض المواد أو حتى أنها تنتهك مواداً أخرى بشكل واضح وصريح – وكلُ ذلك في الوقت نفسه. وفي سياق هذه الأطروحة سنلقّب نمط السلوك هذا بـ"الامتثال الجزئي على نمط الترقيع" (*patchwork compliance*). ولم نتمكن حتى الآن من أن نفك بشكلٍ كامل حالات الترقيع هذه في الامتثال لحقوق الانسان، كما لم نتمكن من شرح عمليات صنع القرار التي تؤدي إلى هذا الترقيع.

وتقترح هذه الأطروحة نموذج حوار سياسي من شأنه أن يفك حالات الامتثال الجزئي على نمط الترقيع، التي تظهر في بعض البلدان حول العالم. ويساعدنا هذا النموذج على أن نفهم كيف تُنشأ حالاتَ الترقيع هذه من قبل صانعي القرار السياسي، والذين ينبغي عليهم أن يأخذوا دور الوسيط بين المبادئ المتضاربة للتيارات المختلفة. ويوضّح كيف ولماذا ليس بالضرورة أن يختاروا مبادئ تيارٍ مُعيَّن بدلاً من مبادئ تياراتٍ أخرى. يمكنهم، بدلاً من ذلك، أن يعتمدوا على حواراتٍ سياسية كي يتوصلوا إلى توافقٍ بين مبادئ التيارات المختلفة، التي تبدو متضاربةً.

وتتناول هذه الحوارات مناقشة أجزاءٍ متفرقة من مبادئ حقوق الإنسان، كما تُقبل من خلال هذه الحوارات أجزاء متفرقة منها أيضا أو تُرفض أو تُخفَّف، كي تتوافق مع مبادئ تياراتٍ أخرى، أو تُستبدَل بقوانين وسياساتٍ أخرى، والتي – في حالاتٍ عدة – ليس لها أيُّ علاقةٍ بها. وإذا نجحت هذه الحوارات، فإنها ستسمح لصانعي القرار أن يزيدوا شيئاً فشيئاً من الامتثال لمبادئ حقوق الإنسان. ولكن، تحديدًا لأن الحوار يؤدي إلى خلق توافقٍ بين التيارات المختلفة، فلن تكون النتيجة الامتثال الكامل.

وعلاوةً على ذلك، لا تؤدي هذه الحوارات السياسية دائماً إلى توافقٍ بين التيارات المختلفة. خاصةً أنه إذا شعرت تيارات مُعيَّنة بعدم تمثيلها بشكل كاف في الحوار أو بأن مبادئها تُنتهك، فمن الممكن أن تطوِّر ردة فعلٍ عكسية ضد حقوق الإنسان. ويمكن أن تؤدي تأثيرات ردة الفعل العكسية هذه الى زيادة تعقيد موقف صانعي القرار فيما يتعلَّق بالامتثال، ويمكن أن تؤدّي إلى خطواتٍ إلى الوراء فيما يتعلَّق بالامتثال، وأن تجعل محاولاتٍ مستقبلية في زيادة الامتثال أمراً أكثر صعوبةً حتى مما كان. وتؤدّي عملياتُ الحوار السياسي هذه – في النهاية – إلى أنماط ترقيع واسعة الاختلاف فيما يخص الامتثال.

ومن المهم للغاية القول بأنه من غير المحتمل أن تحدث حواراتٌ سياسية عن حقوق الإنسان المُختلَف عليها في كل دولةٍ أو أيًا كانت الظروف. وبدلاً من ذلك، يعتمد ما إذا كان صانعي القرار يرون بدء حوارٍ كهذا أمراً ضرورياً، على شرطين متعلقين بالنطاق. يتمثل أولُ شرطٍ في قابلية تأثُّر دولةٍ مُعيَّنة بمجتمع حقوق الإنسان الدوليّ، ويكمن الشرط الثاني في الرصد الصارم لامتثال الدولة لحقوق الانسان من قبل مجتمع حقوق الإنسان الدوليّ. بوجود هذه الشروط تزداد إحتمالية رغبة هذه الدول في تجنُّب الضغوط والعقوبات، كما تزداد إحتمالية احتياجها إلى الفوائد الإيجابية التي قد تنتج عن الامتثال لحقوق الإنسان. ويؤدي ذلك الأمر إلى ضرورة القيام بحوارٍ سياسيّ من أجل تجنُّب العقوبات، ومن أجل الوصول إلى التوافق بين التيارات المتضاربة في مبادئها، وهو الأمرُ الذي سيسمح لها بزيادة الامتثال لحقوق الإنسان.

نفذّت هذه الأطروحة تحقيقاً حول تنفيذ اتفاقية القضاء على جميع أشكال التمييز ضد المرأة (CEDAW)، وخاصة المادة رقم 7 منها والتي تتعلَّق بالمشاركة السياسية للمرأة، وتنفيذ العهد الدولي الخاص بالحقوق المدنية والسياسية (ICCPR)، وخاصة المادة رقم 18 منه والتي تتعلق بالحرية الدينية، كي تفهم متى وكيف تؤدّي مثل هذه الحوارات السياسية إلى حالات الامتثال الجزئي على نمط الترقيع. وتستند الأطروحة إلى بياناتٍ تجريبية واسعة النطاق. وتحتوي على تحليلٍ كميّ يأخذ بعين الاعتبار أكثر من سبعين بلداً حول العالم. وتحتوي الأطروحة كذلك على دراسة حالة فردية متقنة بخصوص الأردن، تستند إلى 59 مقابلة مع وزراء سابقين وأطراف وخبراء سياسيين آخرين؛ بالإضافة إلى 50 مذكرة شخصية ومحضر، وما يزيد عن 180 مقالة صحفية بالإنكليزية وبالعربية، و42 تقريراً بخصوص رصد حقوق الإنسان، وسيرتين ذاتيتين بقلم ملكين أردنيين، والعديد من الدراسات الأكاديمية بخصوص الحرية الدينية والمشاركة السياسية للمرأة في الأردن.

Curriculum Vitae

Violet Benneker works as an advisor to the Netherlands Institute for Multiparty Democracy since 2019. Her work focuses on political dialogue in emerging democracies and fragile and conflict-affected settings. In 2014, she graduated cum laude from the research master Social Sciences at the University of Amsterdam with specializations in International Politics and Mixed Methods. She worked as lecturer in Political Science at the University of Amsterdam in 2014-2015. She started her PhD research and teaching position at the Institute of Political Science at Leiden University in 2015. She was visiting researcher at the Centre for Strategic Studies at the University of Jordan in 2017. Her main research interests include political dialogue, human rights, and international norm contestation. She was born 4 May 1988, and completed her atheneum education at the Nijmeegse Scholengemeenschap Groenewoud in Nijmegen between 2000 and 2006.

There are very few states in the world, if any, that are in full compliance with human rights norms. Instead, states tend to comply with some articles of a human rights treaty extensively, only up to certain extent with some, and openly violate others. Up to now, we have not been able to unravel these patchworks of compliance.

This study presents a political dialogue model to start this process of unraveling. It shows how political decision-makers create patchworks of compliance, as they need to mediate between the mismatching norms of different national and international communities.

When successful, such dialogues allow decision-makers to make small improvements in human rights compliance. However, when communities are not sufficiently represented in the dialogue or their norms are being violated, harmful backlash effects against human rights can develop.

This manuscript uses a mixed-methods approach. It analyzes the implementation of the Convention on the Elimination of all forms of Discrimination Against Women and the International Covenant on Civil and Political Rights in a global quantitative study and two in-depth case studies of Jordan.