Patchwork compliance: political dialogues about contested human rights
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Mismatching norms and patchwork compliance

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'

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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

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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

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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

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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]

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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

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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

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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

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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

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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.

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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.