

Women's Rights in Jordan: CEDAW and National Laws

Haya Zaidan

Abstract

One of the most prominent human rights issues in the Middle East is the issue of women's rights. There are many social, political and legal obstacles to improving women's rights and achieving equality for women. Jordan's ratification of the CEDAW has created a contested space for debate on policy setting. It has also brought about some achievements, albeit slowly and minimally. This paper will demonstrate how Jordan's middle positioning in terms of political system is the key feature in creating a contested yet successful CEDAW ratification and application process. The contested nature of the process stems from the interaction between the various key players in this arena, each seeking legitimacy as the norm setters of women's rights in Jordan. The same conditions that made room for contestation also made way for impact. Using Simmons' analysis of ratification impact, I argue that Jordan's middle political system, being neither a stable democracy nor a stable autocracy, has rendered CEDAW ratification effective because political mobilization in this system is receptive to the increased value and probability of success brought by treaties.

INTRODUCTION

The question of women's rights is as simple and straightforward as it is contentious. It is simple because of the premise that all human are equal. The issue of women's rights is also contentious because of the debatable universality about the definition of rights and how to apply international standards to local settings. The Middle East and North Africa (MENA) region performs relatively poorly in respecting human rights and women's rights by international standards¹. However, in the last couple of decades, progress has been made in the area of women's rights and changes to advance the status of women are apparent in most countries of the MENA. The growth of women's movements in the MENA has played an important role in bringing about these changes, but it is not the only factor. States' participation in the international community

¹ The Arab Human Development Report 2005

and ratification of international treaties and conventions are other influencing factors in changes made towards democratization and development.

The Hashemite Kingdom of Jordan has demonstrated a keen interest in advancing women's rights and improving the status of women across the kingdom. Jordan ratified the Convention on the Elimination of Discrimination Against Women (CEDAW) in 1992, placing reservations on Articles 9.2, 15.4, 16.1-c-d-g². As a result, some legislative changes have been made in order to uphold the equality of men and women in Jordan before the law, but the constitution is still viewed as containing clauses that advantage men more so than women. Law is therefore a crucial element in upholding human rights both at the international and national level.

When a country chooses to ratify an international treaty, it does so because that particular treaty or, even more broadly, the system of international law, appeals to it in one way or another. International law matters and this is manifested in how active the international community is when it comes to issues of human rights. Does international law always change things for the better? Not always, but the fact that treaties and conventions continue to be signed and ratified gives an indication of the kind of power international law might have. The ratification and application process also opens up a gateway to understanding the political and social nature of the states that ratify, as well as the normative processes these states engage in through the ratification and application

² Article 9.2 is concerned with women granting Jordanian nationality to their children. Article 15.4 refers to the same rights of movement and choice of residence. Article 16.1-c-d-g relates to equality in all matters pertaining to marriage and family relations in: c) The same rights and responsibilities during marriage and at its dissolution; (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount; (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation.

process. Jordan ratified the CEDAW in 1992 and since then has been active in trying to apply CEDAW standards to national laws, participating regularly in CEDAW committee meetings and submitting periodic reports on a regular basis. However, progress is slow and results are minimal. Laws are, more often than not, a reflection of a society and its values. Legislative changes cannot simply be imposed on the justice system. But even when they are, the challenge of changing the values and norms of a society remains.

I argue that Jordan's middle positioning in terms of its political system is the key factor in creating a contested process of ratification and application of CEDAW standards to national laws. This contested process has yielded results for advancing women's rights in Jordan but at a slow pace. Jordan's political system lies in the middle of the political spectrum, between stable democracies and stable autocracies. It has an active civil society and a semi-democratic political system. This political identity makes for the contestation and dynamism in discussions and debates on women's issues and CEDAW application. Jordan's political middle positioning is the main factor in creating a contested space on women's issues. I further argue that women's rights and CEDAW application is a contested issue in Jordan because the multiple key actors who represent different political and social identities are engaging in a process of legitimacy seeking by racing to become the norm setters in women's issues.

Jordan is an Arab Muslim country with very traditional and conservative values but is also made up of an important segment of the population who is more liberal and "westernized". Although the majority of Jordanians are more conservative, the liberal

group is just as important for the analysis because this group makes up the elite, many of the activists and women's organizations and the royal family. While Jordan seeks to develop itself with the help of foreign aid and western values of development and democratization, and while Jordan seeks to maintain a stable political relationship with the United States and the western world, it simultaneously seeks to maintain the tribal and patriarchal culture embedded in its society and uphold the Arab and Islamic values strongly attached to the MENA region.

This paper is motivated by an interest to understand the conditions that bring about legal changes in the field of women's rights. This interest is motivated by the unique status that Jordan holds in the Middle East as a relatively stable Arab state, as an ambitiously developing country and as a strong ally of the Western world. The middle positioning of Jordan's political system and duality in social identity create an interesting outcome, one which is important to study and understand because of its relevance to women's groups and decision makers.

To support my argument, I showcase how and why Jordan is considered to be in the middle with regards to political systems and using Simmons analysis of treaty ratification, I make the connection between middle positioning and the effects of ratification and application.

The paper is divided into two sections. The first section provides the context for Jordan and women's rights in the kingdom. Firstly, I will be addressing the debate of universalism and cultural relativism, as it relates to the application of international human rights to local settings. Secondly, I provide a background on CEDAW and Jordan's relationship with the convention. Thirdly, I lay out the fundamentals of Jordan's political

system and how laws are made. Finally, I discuss Jordan's cultural identity which helps shed light on the social interactions relating to women's rights. The second section addresses the argument of middle positioning. It begins by outlining some theories about what kind of countries ratify international treaties. It goes on to discuss who the key players are in the women's rights arena in Jordan. Following up on the key actors is the discussion of norm setting and the competition to set norms in Jordan. Finally and most importantly is the connection made between Jordan's middle position and successful impact of treaty ratification, using Simmons analysis of treaty impact on mobilization.

JORDAN AND WOMEN'S RIGHTS: THE CONTEXT

Universalism and Cultural Relativism

In their quest for legitimacy, many of Jordan's key players in the women's rights arena invoke arguments of the universality of human rights and of cultural relativism needed in applying human rights. It is important to understand the broader debate of universalism and cultural relativism in order to understand how and why these concepts are used by Jordan's key players when arguing for their own position on women's issues.

The premise that all humans are equal and deserve to live in dignity is at the heart of universal human rights. It is hard to argue against Article 3 of the UDHR that everyone has the right to life, liberty and security of the person. All three values are so essential and innate to humans yet their meanings so open and vague that it would be almost impossible to find a critic of this statement as a fundamental human right. The picture gets murkier however when it comes to the interpretation and application of universal

rights. It is even more controversial when the right we seek to apply or uphold appears to reflect the values of a specific social context. The debate of universality versus cultural relativism is an ongoing and contentious one. On the one hand, we need a human rights framework that is universal and applies to all humans equally, without distinction, given that all humans are born free and equal. On the other hand, social and cultural practices are essential to the formation and development of people and of both their individual and collective identities. From an anthropological point of view, every society has its own value system, based on its religion, culture, history and traditions; thus every society will have a different understanding of human rights and a different application of its morals and values system. We are therefore left with a situation of two realities: humans are equal and humans are different. How then do we reconcile these realities?

Human rights instruments, as Steiner et al. state, are on the “universalist side of the debate”³. In the globally interconnected world that we live, in which countries have come together under the (partial) governance of a world authority, the UN, many norms have been defined as international obligations. In the context of human rights, the UN General Assembly adopted the Universal Declaration of Human Rights in 1948. Although not a legally binding document, it is an aspirational document through which the UN proclaimed the promotion of human rights and outlined what these rights are.

The human rights debate used to be more about prioritizing political structures than social issues; non-western states seemed to prefer advancing human rights that involved more social and economic security of the collectivity rather than advance human rights

³ Steiner et al., 518

that involved changing their political structures, ceding their power to the people and giving them the political freedom that the West enjoys. The African Charter on Human and People's rights places great emphasis on duties and solidarity as the relevant framework of human rights⁴. Another example specific to women's rights is the example of some Muslim countries that argue for a rights discourse focused more on equity between men and women rather than absolute equality⁵ via their complementary roles.

Amidst all of this, there were many countries that believed in the human rights discourse but questioned its relevance and applicability to their own contexts. Consequently, the universalism and cultural relativism debate emerged. Universalists argue that dignity and justice are universal values, and that they are the foundations of universal human rights. They argue that cultures are not homogenous entities and that they house a multitude of differences; therefore cultures are not immutable and are constantly in internal conflict, dialogue and change. In addition and in more tangible terms, state parties of the UN and its various bodies have signed on to and ratified a number of conventions and treaties, which shows the world's acceptance of universal human rights. Finally, universalists advocate for international human rights standards because abiding by them is considered an important step towards democratization, though not exclusively for that purpose. Consequently, universalists highly value democratic systems as they provide ideal conditions for the respect of human rights.

⁴ Steiner et al., 506-507

⁵ Equity focuses on fair outcomes rather than identical roles. The idea of complementary roles and equity is that men and women have different roles, obligations and responsibilities towards each other, but the outcome of these complementary arrangements is fair and guarantees each person's wellbeing and rights.

On the opposite site of the debate are the relativists. They argue primarily that these universal rights originated in the West and reflect western traditions and values. Many cultural relativists view the human rights discourse and the goal of universal application as western cultural imperialism, the white man dictating what is right and what is wrong. More generally, they argue that these norms cannot be imposed by outside forces and that change will come from within, if it so reflects the specific society and context. Another critique of the universal rights discourse is that it is too individualistic and too legalistic, again reflecting western liberal values. Finally, on the argument of immutability, relativists argue that change should not be imposed and forced from the outside, rather it will come from within and that the West should be patient until other states go through their own processes of political change.

The idea of universality is necessary because it provides an important and strong reference point from which states, international organizations, civil society and individuals can draw either support or criticism. Based on the premise that all humans are born equal and that we share the values of dignity and justice, it can be argued that the dignity and justice of many people around the world is being violated. These violations of dignity and justice are human rights abuses and people around the world are struggling to put an end to oppression and the violation of their rights. At the same time, some human rights violations can be addressed and alleviated through a local discourse and by promoting new practices that are more in line with the domestic context and values. The current structure of the universal human rights system reflects this dichotomy.

The international community comprised of world states has drafted, adopted and ratified many treaties and conventions on human rights. Though some states have not

ratified all treaties, the overwhelming majority has. As a member of the UN, every state is guided by the UDHR as the overarching framework of human rights. There are 9 UN conventions on human rights that have been ratified by world states to this day⁶. To give an example of the most ratified conventions, the International Convention on the Elimination of Racial Discrimination (ICERD) is ratified by 195 countries, the Convention of the Rights of the Child (CRC) is ratified by 193 countries, the Convention on the Elimination of Discrimination Against Women (CEDAW) by 187, the International Covenant on Civil and Political Rights (ICCPR) by 167 and the International Covenant on Economic, Social and Cultural Rights (ICESCR) by 160. These numbers indicate that the human rights discourse is to a strong degree accepted as a universal framework. That being said, limitation clauses still exist in conventions so as not to make rights absolute. This margin of appreciation⁷ is important both to encourage states to sign on even if they do not agree fully with the content of the convention and to accommodate the reality that different countries have different social, economic and political contexts. In addition, countries are allowed to place reservations on some articles of conventions that they do not fully agree with, while the international community encourages them to lift their reservations. Arab countries and the CEDAW is a good example, as every Arab country that ratified the CEDAW placed reservations. Another very important consideration to keep in mind is the potential negative implications that universal rights have on some individuals and communities. The example of child marriage illustrates this well. International standards call on states to change the

⁶ OHCHR, <http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>

⁷ The margin of appreciation is a concept set out by the European Court of Human Rights in order to give courts room to manoeuvre in their scrutiny of human rights application in different countries, taking into consideration the difference in domestic laws and culture (O'Donnell, 475).

minimum age of marriage for girls to 18. While this makes sense in western societies in how we define adulthood, how we structure our school systems and how we view marriage, it does not make the same sense in many countries around the world⁸. This and many more examples of cultural differences and normative conceptions illustrates why the universality and cultural relativism debate will continue to exist. Human rights as a fundamental concept and universality as a goal is important but needs to be accompanied by openness to different contexts and the flexibility of local application.

CEDAW and Jordan

CEDAW⁹ is the Convention on the Elimination of All Forms of Discrimination against Women. It was adopted in 1979 by the UN General Assembly. It contains 30 articles pertaining to the rights of women, defining what discrimination against women is and how to end it. The Convention defines discrimination against women as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human

⁸ Bunting uses the example of child marriage in northern Nigeria to deconstruct the meaning of marriage and the implications of imposing the universal age of marriage. She argues that adolescence is a western idea and that girls in northern Nigeria grew into adulthood faster than girls in the west. It is important to deconstruct the different concepts that affect human rights application in order to understand why a phenomenon takes places. She goes on to make the connection between low socio-economic status and early marriage. Many societies marry off their girls at an earlier age because they cannot afford to take care of them and want to decrease their responsibility burden. In some instances, girls want to get married sooner rather than later in hopes for a better future with their husbands, or simply because they do not have other opportunities available to them. In these examples, imposing an age of marriage of 18 could harm the future of these girls and their wellbeing. Instead, efforts should first be focused on the socio-economic conditions that result in early marriage.

⁹ CEDAW, <http://www.un.org/womenwatch/daw/cedaw/>

rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field"¹⁰. There are 187 countries that have ratified the CEDAW and this means that these states have committed themselves to undertake a series legal, political and social measures to end discrimination against women. Ratifying countries are expected to make the necessary changes in their legal systems, first to abolish any discriminatory laws and second to reflect CEDAW standards. States should also establish effective institutions to protect the rights of women as well as ensuring the elimination of discrimination against women at a more private level, by persons, organizations or enterprises. Countries that have ratified the CEDAW are legally bound by it and must put its provisions into practice. Understanding that changes will not come instantly, CEDAW also commits ratifying countries to submit national periodic reports, at least every four years, on the measures and actions they have taken to comply with their treaty obligations.

In Jordan, many laws relating to women and their rights were born out of “temporary laws”. There were two periods of time in Jordan when parliament was suspended; after 1967, a state of emergency was declared until 1989 where the 1976 Jordanian Law of Personal Status currently used was first promulgated as a temporary law¹¹. Also between 2001-2003, parliament was dissolved and Temporary Law 82/2001 on Law of Personal Status and Temporary Law 86/2001 on Penal Code were drafted. Laws that are usually more difficult to pass in parliament, among them laws related to the status of women, are introduced in times where temporary laws can be effected. These laws are subject to parliamentary ratification once the new legislature reconvenes.

¹⁰ CEDAW

¹¹ Welchman in Family, Gender and Law in a Globalizing Middle East and South Asia

In July 1992, Jordan ratified the CEDAW as part of an international commitment to end discrimination against women in all of its forms. Like all other Arab countries that ratified the CEDAW, Jordan's ratification was conditional where it placed reservations on a number of articles. The reservations made were on Article 9.2 "States Parties shall grant women equal rights with men with respect to the nationality of their children"¹², on Article 15.4 "States Parties shall accord to men and women the same rights with regard to the law relating to the movement of person and the freedom to choose their residence and domicile"¹³ and on Article 16.1-c-d-g "States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women":

- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
- (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation¹⁴.

Since ratification, Jordan has submitted five official periodic reports in 1997, 1999, 2005¹⁵ and 2010. Although the Jordanian government placed reservations on CEDAW, it was still keen on publishing CEDAW in the official Gazette in order to give

¹² CEDAW

¹³ CEDAW

¹⁴ CEDAW

¹⁵ The third and fourth periodic reports were combined and submitted in the same year.

it more power and credibility in Jordan's legislative process. This was not done however without pressure from domestic women and human rights groups to publish the CEDAW and to lift reservations. The publishing of the CEDAW in the Gazette can be viewed as a sign of true intention and interest to actively implement the CEDAW but it was also a way to signal to outsiders Jordan's progress and "please national and international demands"¹⁶. Simmons provides insight on why Muslim countries are likely to place reservations on treaties by explaining that this reflects the fact that these governments "are not simply posturing for international kudos but are to some degree trying to make their international commitments fit their cultural conceptions of justice"¹⁷. The idea of equality in many cultures and value systems is understood differently from the west's understanding of perfect equality between men and women. Instead of the equality discourse, they take on a discourse of equity and complementariness, where different roles are established to yield a fair outcome of wellbeing for the family. Jordan is seeking to modernize and attain an internationally praised status but at the same time is holding on to its more traditional values.

Upon publishing CEDAW in the Gazette, Jordan lifted the reservation off Article 15.4 which now gave women the freedom of mobility and choice of residence. Women's groups saw this as a step forward but criticized the delay in lifting this reservation since unmarried women in Jordan have for a long time been able to travel on their own without male permission. This shows that the social realities on the ground do not always reflect the law and vice versa. Other progress that has been made, as outlined by the CEDAW Committee's report on Jordan's progress, is the establishment of a 20% quota for women

¹⁶ Alatiyat & Barari, 362

¹⁷ Simmons, 102

in the municipal councils and the achievement of parity between girls and boys in primary and secondary education¹⁸.

In 2002, the government announced some important amendments to the Personal Status Law and the Penal Code, as they relate to important and contentious issues of family law and honour killings. These amendments as related to family law include raising the minimum age of marriage to 18 for both males and females, from 16 and 15 respectively, giving women the right to divorce their husbands so long as they give up their financial compensation of marriage (called khulo'), and in the case of a male marrying more than one woman, the judge has to inform the first wife of the second marriage and inform the second wife that the man is already married. Interestingly, in Islamic law, when a man takes on a second wife¹⁹, he is obligated to inform his wife and actually seek permission to do so, as well as informing the wife to be about the current status. Again, this is another manifestation of a disconnect and gap between various laws and practices in Jordan. According to the fifth periodic report, a draft act to amend the Personal Status Law with regards to khulo' is being considered, aiming to allow women to divorce their husbands without giving up all economic compensation upon marriage. As for the Penal Code, the amendment was to drop the impunity clause which "used to give the benefit of impunity to a man who killed or injured his wife or one of his female kin whom he has caught committing adultery"²⁰ and now makes him liable for punishment. One law that still grossly violates the right of women is Article 308 of the Penal Code. This law stipulates that if a rapist agrees to marry his victim for the duration

¹⁸ Association Démocratique des Femmes du Maroc, 23

¹⁹ There are specific and strict conditions to marrying more than one woman but culturally, men rarely follow these guidelines.

²⁰ Alatiyat & Barari, 365

of at least 3 years, charges against him will be dropped²¹. There was a big outcry in Jordan in 2012 when this law was actually applied to a rape case.

According to the most recent report by the Committee on the Elimination of Discrimination against Women, the “Concluding observations of the Committee on the Elimination of Discrimination against Women” for Jordan in 2012, Jordan has made some noteworthy improvement and legislative changes in compliance with CEDAW. The committee welcomed the adoption of the Domestic Violence Protection Act in 2008, the Human Trafficking Act in 2009, the amendment of Penal Code in 2010 pertaining to perpetrators of honour crimes, and the adoption of the Temporary Social Security Act 2010, as well as lifting reservation on article 15(4). The committee equally expressed concerns over the lack of implementation of all provisions of the CEDAW and the continued reservations on articles 9(2) and 16(1) c-d-g. Noting the importance of religion and Sharia in Jordanian law, the committee recommended that the state party intensify its efforts in debating with religious communities and leadership on full implementation of the CEDAW and particularly on lifting its reservation of article 16(1) c-d-g. The CEDAW committee justifies compliance based on practices of other state parties in the region and in the Organization of Islamic Cooperation (OIC) who found that article 16 is compatible with Sharia Law²².

The example of women’s rights in Jordan demonstrates the necessity of universalizing human rights. It also raises the challenges of full application of

²¹ Penal Code 308, http://www.lob.gov.jo/ui/laws/search_no.jsp?no=61&year=1976

²² CEDAW/C/JOR/CO/5, 3 - <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-JOR-CO-5.pdf>

international laws. Violence against women, especially in the private sphere, is a prevalent phenomenon in Jordan. Personal and criminal laws in Jordan, up until the ratification of the CEDAW, did not protect women from being abused or from being killed in honour crimes. Socially and culturally, it was also unacceptable for a woman to take action against an abusive husband, although from an Islamic perspective, domestic violence and abuse is not permitted. These personal matters were dealt with at the families level more so than at the government level. Before Jordan ratified the CEDAW, there were a lot of efforts by women's groups with the support of the royal family to address the problem of violence against women. Local women's groups were doing very well with the resources that they had but they needed international support and pressure to help them even more. Although Jordan placed reservations on the CEDAW upon ratification, ratifying the convention still means that Jordan is committed to the international fight against discrimination against women. This meant that women's groups could use this instrument to shame their government, to put pressure on it and hold it accountable to its international commitment. Some of the successes brought about by women's groups with the help of the CEDAW is allowing women to divorce their husbands, raising the age of marriage to 18 for both boys and girls and dropping the impunity clause of honour killings in the Penal Code. Countless examples such as these exist around the world, where activists sought the support of universal human rights standards to hold their governments accountable and bring justice to victims of human rights abuses. That being said, these achievements were possible for two main reasons: they did not contradict Islamic laws and values, and they reflected a current and changed social context. If we look at the examples of the reservations on CEDAW, these articles

cannot yet be adopted because they go against Islamic laws, or a specific interpretation of it, and go against cultural practices of society. For example, granting the same rights and responsibilities to men and women in absolute terms is still seen as unacceptable because religiously and culturally speaking, the rights and responsibilities of men and women upon entry into marriage are different. A man must pay a dowry to the woman he wants to marry as well as he must financially provide for her and their future family. Right away, this shows that the rights and responsibilities are different between men and women and some will argue that women have more rights in this respect. But based on the premise that the man must provide financially, the entailing assumption is that a woman will have to stay at home and the man will be the one to work outside. It also results in the idea that the man is the primary decision maker since he is the financial provider. This is a possible and viable scenario if it reflects the arrangement made by the couple. However, from an Islamic point of view, there is nothing that forbids women from being economically active. The responsibility of both the father and mother is to ensure proper care for their children. So far in the Muslim world, people have not abandoned the man's commitment of a dowry and of financial responsibility. Many women like the idea that they can choose to work or not work without losing the financial safety cushion for them and their families, and many even accept their secondary role as decision makers in exchange for a comfortable life. On the flip side, many women are the primary decision makers even if they are not the financial providers so it really is a matter of specific arrangement and family dynamics. Many women however, do not have a say over the kind of arrangement they want to have and are by default the secondary decision maker. Nonetheless, the general consensus in the Middle East is the one reflecting

specific gender roles. Things are however changing and have drastically changed over the past few years. More women are working and financially contributing in their families and have achieved more economic independence, giving them more power in the face of rights violations. More men are also thinking differently about gender roles and view rights and responsibilities in a more equal manner. From a legal point of view, if socially people abandon the idea of dowry and the man's financial responsibility, then the reservation on Article 16 of the CEDAW could possibly be removed. This necessitates a complete change in social values and practices, as well as an Islamic argument for this change. Until then, it is hard to expect complete adoption of international laws on these matters.

Jordan's Political System

The Hashemite Kingdom of Jordan is a constitutional monarchy with representative government as described by the Government of Jordan in its official website. The reigning monarch, currently King Abdullah II ibn Al-Hussein, holds a significant amount of power. He is the head of state, the chief executive and the commander-in-chief of the armed forces²³. The king exercises his executive authority through the prime minister, whom the king appoints. The Prime Minister also advises on the appointment of other cabinet ministers. As per the 1952 Constitution, the National Assembly is made up of an 80 member House of Representatives, also known as the House of Deputies, who are elected by direct universal suffrage, and a 40 member

²³ Government of Jordan website, <http://www.kinghussein.gov.jo/government.html>

Senate, or the House of Notables, appointed by the King²⁴. The House of Deputies and the Senate constitute the legislative branch of the government, for which cabinet is responsible. The judicial branch on the other hand is an independent branch of the government. Upon on the abolition of the British Mandate and Jordan's declaration of independence in 1946, a new constitution was formulated and adopted by the Legislative Council in 1947 to replace Jordan's Organic Law from 1928. The constitution was published in the Official Gazette that same year giving it its legal status. In 1952, the constitution was liberalized and changed. The 1952 constitution is the one currently used in Jordan. The constitution guarantees the rights of Jordanian citizens regardless of race, language or religion under Article 6. Men and women are equals before the law however, the constitution does not explicitly state that the law cannot discriminate against women.

Based on the Constitution, the passing of any laws must be approved by the reigning monarch. His veto can be overridden by a two-thirds majority of both house of Parliament. In addition, the king must also approve any constitutional amendments. As for treaties and agreements, as the head of state the king is the one to conclude these commitments with the approval of cabinet and Parliament. In Jordan, legislative powers are shared by the king and Parliament²⁵. The king appoints the senators while deputies of the lower house are elected members. However, the king has the right to dissolve either house of Parliament or to expel any of its members.

Much of the debate on implementation of international treaties is centered on domestic laws and the process of lawmaking and changing, so it is important to

²⁴ IBID

²⁵ IBID

understand how this process works in Jordan. Lawmaking is born out of Parliament where both houses bring up issues, propose legislation and engage in debates before voting. The process of lawmaking starts with proposals being referred to the House of Deputies, or the lower house, by the prime minister where the deputies can either accept, amend or reject the proposals. If the proposal is accepted by the lower house, it is referred to the government for drafting into a bill and then it goes back to the house for approval. Once the bill is approved by the lower house, it is passed on to the Senate for debate and approval. If the bill passes through the Senate, then it is submitted to the king who can either grant his consent or he can reject the bill at which point it returns to the House of Deputies with justification for his refusal. The bill is then reviewed and the voting process is repeated. If rejected once again, both houses can override the king's veto by a two-thirds majority and the bill becomes an Act of Parliament.

As for the judicial branch, the Constitution divides the courts into three categories: civil, religious and special courts. Special courts describes the State Security court which is made up of military and civilian judges. For our analysis on women's rights, the focus is on civil and religious courts. Civil courts exercise their jurisdiction over civil and criminal matters in accordance with the law. The Jordanian civil legal system is drawn from European codes such as the Code Napoléon but are not entirely European as criminal codes were developed during the Ottoman Empire²⁶. Religious courts include Sharia courts and tribunals for the Christian minority. Religious courts deal with personal law in matters such as marriage, divorce, inheritance and child custody. Sharia rules personal and family law because of "the greater specificity of Sharia

²⁶ Warrick, 39

in this area compared with other areas, such as commercial law, and the desire of the state to preserve traditional social forms and hierarchies”²⁷.

This duality in legal systems is greatly discussed by Warrick, as she draws a connection between duality and state legitimacy. Through her analysis I support my claim that Jordan’s middle positioning in terms of its political system, a system that is neither completely liberal and western nor completely traditional and Islamic but rather combines both, is the key feature to create a contested yet successful ratification and application process of the CEDAW.

Jordan is far from being a full democracy. Government is often viewed as being corrupt and policies can be made to reflect the interests of those in power. It is common to see political protests and expressions of opposition to the government, but they are also countered with some repression. The political arena is however active and dynamic, with participation of different political parties representing different ideologies. There is also a vibrant civil society and in particular a prominent women’s movement. Jordan receives foreign aid and participates in the international community, and therefore domestic human rights groups are connected with international ones. However, Jordan is undergoing many changes in which issues of legitimacy are prominent; women’s issues are one that the state engages with to seek legitimacy. The use of law for seeking legitimacy is important because “law is a means by which shared norms and values are given formal recognition and political reality”²⁸. As discussed, Jordan’s political system is characterized by duality and middle positioning; the state does not have a consistent

²⁷ Warrick, 46

²⁸ Warrick, 7

approach to women's rights because it is not a monolithic actor and is influenced by different actors and interests in its quest for legitimacy. Jordan relies on both the traditionalist legal strand and the liberal legal strand for its legitimacy in the eyes of both its citizens and the international community. The duality maintained by the state is not by accident but as a result of the state seeking legitimacy as an authentic traditional state and a modernizing liberal one, and while "contestation over cultural legitimacy and the role of 'authentic tradition' is enormously significant for political development in Jordan, this is not because of any objectively necessary 'clash' between tradition and modernity, Islam and democracy or civilization"²⁹. The state is rather seeking legitimacy and women's issues are among the most contentious and sensitive ones to address at the legal and practical levels. The state would lose its trust and credibility towards its citizens if it implemented laws that went against the "laws of God", as prescribed by the Quran and Islamic jurisprudence. At the same time, the state would seem frivolous in the eyes of the international community if it did not implement any of the standards that it committed itself to.

This is why debates between Islamist parties, other political parties, women's groups and government are so prevalent. It is almost as if the position that the state takes with regards to women is the main shaper of its identity and thus legitimacy. Like many other Arab countries that share the same middle positioning as Jordan, placing reservations on CEDAW and carefully amending laws to reflect the convention is a calculated act to maintain legitimacy. In the government of Jordan's official website, there is strong emphasis on the kingdom's commitment to reforms. Since 1989, "all

²⁹ Warrick, 39

elements of the Jordanian political spectrum have embarked together on a road to greater democracy, liberalization and consensus building”³⁰. The political identity that the state projects to its people and to the outside world is one that seeks democracy and liberal values, an identity that the west promotes through its bilateral relationships and through the international system. At the same time however, laws and social values have not yet reflected this image as a deliberate technique by the state to “meet particular political ends”³¹ as well as to reflect the society’s values. Thus, Jordan is considered to be in the middle ground of political systems, as it is neither a stable democracy nor is it a completely authoritative regime. This two faceted identity is not unusual when it comes to human rights.

Cultural identity

The cultural identity of a society is predicated on a number of different elements. Traditions, religion, language and social norms are all factors in making up the identity and value system of a culture. Cultural or social identities are often thought to be monolithic, that if one were to ask what the cultural identity of society in Jordan was, the answer would probably be an Arab Muslim and conservative society. And although a large part of Jordanian society is Arab, Muslim and conservative, another important part of society is not. Unfortunately, Jordanian society is quite stratified; the gap between the wealthy elite and the middle and lower classes is extremely large. Even when universal social services and rights exist, like in most societies, your economic status influences your outcomes. In the case of women in Jordan, those “from more liberal families, which

³⁰ Government of Jordan

³¹ Warrick, 44

tend to be wealthier”³² have access to more rights and freedoms such as education, freedom of movement and employment opportunities. Wealthy people are also much better connected and enjoy the benefits of “wasta”, described as social connections or nepotism. Knowing the right people significantly influences social and economic opportunities and outcomes. That said, one cannot equate wealth and influence with liberalism, and poverty and weakness with traditionalism. Since Jordan’s cultural identity is also grounded in the tribal system, many of those with political influence are more traditional. Ministers and parliamentarians are mostly men from large tribes who often seek their own individual benefit or that of their kin and networks. The patriarchal system in which Jordanians find themselves allows for the men in power to heavily influence both practices and laws that affect women. Women are seen as subordinate to men and are confined to specific roles. Gender roles are obvious in Jordan; the man works outside the home and the woman stays at home. There are of course many women who are economically active, but comparing Jordan to the rest of the world, economic activity is quite low. It is estimated at a rate between 12% and 26% according to the World Bank³³. While economic activity greatly influences a woman’s autonomy and freedom, it is not the only factor to improve the status of women and their rights. There also this understanding in the Middle East that women should not go against the will of the men in their lives, be it husbands, fathers or brothers. While Jordanian society is predominantly Muslim, most of the practices harmful to women are engrained in the tribal patriarchal value system and have no grounding in Islam. Other practices are justified in the Islamic context but are debatable on the grounds of interpretation. Modern Islamic scholars argue

³² Warrick, 12

³³ World Bank, 5

that Islam is not a discriminatory religion and that religious laws that do discriminate are not being interpreted and applied according to the current time and place³⁴. There is always an ongoing debate about the influence of culture over religion on many matters relating to women. As Samar El-Masri says, “this religious and cultural mix-up has influenced in turn the social life of women”³⁵.

So far, we have seen that Jordan’s cultural identity is influenced by Arab traditions and tribalism, and by Islam. It is important to add to these the heavy influence of liberal values and westernization. Jordan is an active member of the international community and has very strong ties with the west. It underwent a series of structural adjustment programs in the 1990’s and continues to receive development aid. Thus, western influence and presence is apparent in the country, but especially in Amman, where signs of openness and liberalism are found in most of the capital³⁶. This mixed character gives Jordan an image of a balanced or middle positioned country in terms of cultural identity. This mixed identity weighs into the process of CEDAW ratification and application. While analyzing the cultural identity of a society, it is important to understand that the analysis is not made to judge which identity is better, rather how does each identity influence the behaviour of society, and for our case how does identity influence the rights of women, both in theory and in practice. Jordan’s mixed identity is reflected in the agendas of and interactions between the important key players in women’s rights and CEDAW application. Each party engages in its own normative

³⁴ Ramadan

³⁵ El-Masri, 935

³⁶ Amman is divided between west and east and ironically the western side is the westernized one.

discourse to seek legitimacy from the people and exercise their power over key policy and legal issues.

In the following section, I will address the relationship between middle positioning and the contested and slow success of CEDAW ratification and application.

MIDDLE POSITIONING

Jordan's political middle position has created a contested process for adopting international standards in national laws but is also the key element in the success of CEDAW ratification and application, despite the slow pace of success. The middle positioning gives room for key actors and stakeholders to interact with each other and engage in normative discourses to gain legitimacy as norm setters on women's issues, creating the contestation.

Who ratifies?

Simmons describes three types of governments who ratify international treaties. There are sincere ratifiers, false negatives and strategic ratifiers. Sincere ratifiers are those governments who "value the content of the treaty and anticipate compliance"³⁷. These governments are typically democratic governments or governments who agree completely with the treaty for whatever political or moral reasons. False negatives may be committed in principle but fail to ratify. Although these governments may agree with the values of the treaty, they often face "daunting and political and institutional

³⁷ Simmons, 58

challenges at home that make it difficult to secure ratification”³⁸. An example of this is the United States and its lack of ratification of the Convention on the Rights of the Child (CRC), even though American legislation, to a large extent, protects the rights of children similarly to the provisions of the CRC. Finally, there are strategic ratifiers and these are the governments who ratify because of certain political or economic gains. These governments “trade off the short-term certainty of positive ratification benefits against the long-run and uncertain risk that they may face compliance costs in the future”³⁹. Strategic ratifiers ratify because other countries are doing so and to avoid criticism. Shaming is a very powerful tool in international relations and is often used by democratic states to pressure other states to comply. Strategic ratifiers also try to ingratiate themselves with domestic groups and international organizations with their strategic commitment to an international treaty. Adding to Simmons analysis of the types of governments who ratify, governments are not consistent in their reasons to ratify. On one issue, a government can be a strategic ratifier and on another issue, it can be a sincere ratifier. This is important for our analysis because it underlines the complexity of the relationship between international law and domestic factors. This shows that resistance to international conventions is tied to their content and not to the idea of commitment itself. Because a government can willingly adhere to one convention and refuse to adhere to another, flexibility in commitment is very important elements of effective international legal mechanisms. The fact that reservations can be placed on treaties is an important tool to encourage middle countries to ratify. Jordan would have probably not ratified the CEDAW if it did not have the option to place reservations, or it would have ratified and

³⁸ Simmons, 58

³⁹ Simmons, 58

fallen under the strategic ratifiers category without an excuse for inaction.

Upholding the provisions of ratified international treaties is a predicament of domestic politics, Simmons argues. International treaties are given meaning because “no one cares more about human rights than the citizens potentially empowered by these treaties”⁴⁰. Domestic mechanisms such as setting new policy agendas, litigation and social mobilization all harness the potential of treaties to influence practices and legislation for human rights. Simmons finds that a “treaty’s greatest impact is likely to be found not in the stable extremes of democracy and autocracy, but in the mass of nations with institutions in flux”⁴¹ such as Jordan. This is where citizens have both the motives and the means to demand their rights and succeed, and this is where international law matters the most⁴².

Key actors

In the process of all the developments in laws relating to women’s rights and status in Jordan, many different actors exerted their share of influence. The most important players in the women’s rights arena are the government, the Royal family, Parliament, women’s organizations, international organizations and Islamic parties and organizations. Often, it is easy to distinguish which actors are working together and which ones are working against each other, but in the case of Jordan, the relationship between all of the mentioned players is more circular than linear. Depending on the issue or the power struggle at hand, the relationship of all of these actors can change. For

⁴⁰ Simmons, 154

⁴¹ Simmons, 155

⁴² Simmons

example, on the adoption and implementation of the CEDAW in general, women's groups and the government can be seen as allies and champions of this, whereas on the issue of family, Islamic Law or Sharia, judges and the government can be partnering key players, and so on. According to the Jordanian Constitution, "any amendments in laws should be passed by both the lower and upper houses of parliament before they receive final approval by the King and are published in the official Gazette"⁴³ which will showcase some of the challenges in changing laws when Parliament is made up of mostly men who strongly value tribal traditions.

Upon the adoption of the CEDAW, the mainstream Islamic movement which include the Muslim Brotherhood (MB), the Islamic Action Front (IAF) and the Islamic Centrist Party (ICP) all showed some sort of opposition to the convention as it was viewed as a form of "cultural globalization"⁴⁴ and a way to undermine Islamic laws and values and "implement foreign agendas"⁴⁵. The heart of the argument was that Islam focuses on justice more so than absolute equality, and that the CEDAW undermines the complementary roles of men and women as the foundation of society. In 2009, female activists from both the ICP and IAF started a campaign against CEDAW with the slogan "liberating women with Islam and not from Islam". Another criticism by these Islamist groups is that CEDAW lacks "reference to and recognition of religion"⁴⁶ as part of the broader debate of universalism versus cultural relativism and the importance of the local context, values and beliefs. To these groups and to many Jordanians, the idea that

⁴³ Alatiyat & Barari, 365

⁴⁴ Alatiyat & Barari, 363

⁴⁵ Alatiyat & Barari, 363

⁴⁶ Alatiyat & Barari, 364

CEDAW would view religion as a barrier to women's freedom is enough to cast a negative image on the convention.

The amendments announced by the government in 2002 were introduced in Parliament in August 2003 for debate and approval, as they were introduced in 2002 as temporary laws while parliament was dissolved between 2001 and 2003. The lower house voted twice against the amendments and the personal status law was the main issue of debate. The Islamists had a big impact on the outcome of the law where they argued that khulo' benefitted only the elite that could afford to give up their financial rights of marriage but also could lead to women easily leaving their families and ruining the social fabric of society. This led to the involvement of the Supreme Sharia Judge who, with the participation of women's groups, revised the law on divorce and removed the khulo' clause because it obliges women to abandon compensations and rights they are entitled to via the marriage contract⁴⁷. Islamists, with the help of MPs who opposed the amendments in the Personal Status Law were able to reject the draft law that contained the khulo' amendment. However, the "khula provision remains on the books despite the lower house of parliament's attempts to ban the practice in 2003 and 2004"⁴⁸ Beliefs were not the only major factor influencing votes; "many activists felt that the khulo' amendment, along with other amendments regarding women, would be sacrificed in an effort to strike back at the King"⁴⁹. These kind of strategic political actions are common in Jordanian politics, especially on women's rights. Although in principle Islamists should not oppose khulo'⁵⁰,

⁴⁷ Hussein, <http://www.refworld.org/docid/4b9901227d.html>

⁴⁸ Hussein

⁴⁹ Clark and Young, 341

⁵⁰ At the time of the Prophet Muhammad, a woman came to him asking for a divorce from her husband because she could not bare living with him. The prophet asked her to return the dowry

they did use the potentially harmful outcomes of khulo' as a way to advance their values and beliefs in the political and legislative systems.

On the issue of honour killings and the penal code, there was a divide in positions between all the key players. Debates on amending the penal code related to honour crimes began in 1990's through the efforts of women's rights groups and supported by the royal family. Also during the Parliament's temporary suspension, the government adopted some amendments to the law. Women's groups were calling for the cancellation of Article 340 that virtually gave men the right to kill a female kin if she was caught committing adultery in order to regain the family honour. The women's rights groups campaigned for many years until the government adopted these amendments in mid 2001. It is important to notice that the government took the opportunity of a suspended parliament to make amendments to laws that would otherwise have been very hard to pass through parliament. This behaviour gives a hint about the power dynamics decision making and the alliances between key actors.

Finally, a major change in law to advance women's rights and increase their participation in the political sphere was the introduction of the quota system for women in 2003. Women's groups advocated for the quota system arguing that it would help overcome two factors impeding on women's participation politically. They argued that a quota system "helps challenge the cultural assumption that women have fewer leadership capabilities" and "helps overcome the shortcomings of the 'one person one vote' electoral system adopted in 1993 that renders women's chances of winning seats rather slim"⁵¹

she received and divorced her from her husband. This is exactly what khulo' entails and it is not a practice that goes against Islamic beliefs.

⁵¹ Alatiyat & Barari, 368

because citizens end up saving their one vote for a candidate who can offer them services and benefits and women do not have the same social, political and financial power and leverage as do the male candidates. This raises even more concerns among women's groups that women are marginalized in all domains and achieving equal or high political participation is interrelated with other fundamental socio-economic factors. The quota system was championed by women's groups as well as Islamist parties because they had active female members who could increase their popularity and credibility even more among Jordanian citizens.

Competing norm setters

This section of the paper will discuss the processes of norm setting. It begins by providing the theoretical framework that will be applied to the analysis of social and legal norm setting in Jordan. I will be predominantly using the concept of socialization to understand normative behaviour in human rights norm change. I will lay out some of the important and fundamental theories of norm change and norm setting while providing a critical narrative application of these theories to the issues discussed in the previous sections.

Norms are appropriate social behaviours that are expected from a group. They are of particular interest and importance because “while ideas are usually individualistic, norms have an explicit intersubjective quality because they are *collective* expectations”⁵². Even further, it is interesting to understand how these norms in turn influence ideas and behaviors at both the macro and micro levels. For the purpose of this paper, the focus will

⁵² Risse & Sikkink, 7

be on human rights norms as they hold a special status within the international state system in which we find ourselves. The discussion in this paper is around the CEDAW and Jordan's adoption of the international norms. The analysis of international human rights norms is relevant because states cannot escape the normative behaviours associated with an international system. More importantly "human rights norms have constitutive effects because good human rights performance is one crucial signal to others to identify a member of the community of liberal states"⁵³.

Norms serve many purposes. Most importantly, they "influence political change through a socialization process that combines instrumental interests, material pressures, argumentation, persuasion, institutionalization, and habitualization"⁵⁴. Socialization describes the internalization and implementation of norms, and more specifically the internalization of international norms to the domestic context. Risse and Sikkink argue that this process goes in hand in hand with political transformation and structural changes. International norms are interesting and of importance to use to explore changes in human rights, and in our case of women's rights because they "challenge state rule over society and national sovereignty"⁵⁵. International norms are equally as important in the analysis of change, especially when we deal with institutional change because international norms are institutionalized in international regimes and have gone through the process of becoming accepted. This is relevant because many local NGOs and transnational advocacy networks will view these international norms as more legitimate and credible since they have come to be accepted and institutionalized and will use their

⁵³ Risse & Sikkink, 8

⁵⁴ Risse & Sikkink, 37

⁵⁵ Risse & Sikkink, 4

credibility to advance their own agendas of norm setting in the local context. Lastly, as Risse and Sikkink outline, international human rights norms are contested ideas and this contestation itself is crucial to shaping the outcome of the interactions between universality and cultural relativism.

Risse and Sissink argue that the diffusion of international norms in human rights depend on the establishment and sustainability of networks among domestic and transnational actors who manage to link with international regimes to alert Western public opinion and Western governments. This is a very important part of their argument because it elevates the status and influence of Western regimes and Western ideals above those of domestic ones. This applies to Jordan's case in a clear way both at the state level and NGO level. At the state level, Jordan seeks to maintain an image of a liberalizing country, and a friend of the West. At the NGO level, domestic women's groups have strong ties with other transnational advocacy groups.

To demonstrate the process of socialization, Risse and Sikkink came up with a five phase "spiral model" that shows the complexity of socialization in a non-linear way. States go through various stages of repression, denial, tactical concessions, prescriptive status and rule consistent behaviour before an international human rights norm is internalized. The diffusion of international human rights norms is dependent on transnational advocacy networks who help create the necessary conditions for domestic change via three methods. All three strategies in some way challenge the norm-violating state's identity: norm-violating states end up either self-questioning, or being questioned by other states or by their citizens. In these processes, there is an attempt to shift power around and reallocate it by invoking and provoking identities. As outlined by Risse and

Sikkink, transnational advocacy networks put norm-violating states on the international agenda in terms of “moral consciousness-raising”⁵⁶ and in turn “remind liberal states of their own identity as promoters of human rights”⁵⁷. These networks are also crucial in mobilizing domestic groups and social movements against norm-violating states in that they empower them and legitimate their claims, placing their values and identity above that of the norm-violating state. The third strategy is to challenge norm-violating states by “creating a transnational structure pressuring such regimes simultaneously from above and from below”⁵⁸.

Johnston lays out two socialization mechanisms: persuasion and social influence. Persuasion has to do with cognition and the active assessment of the content of a particular message. As a microprocess of socialization, it involves changing minds, opinions, and attitudes about causality and affect (identity) in the absence of overtly material or mental coercion⁵⁹ and is more promoted rather than spontaneous. Persuasion describes when a state is actually convinced by a certain norm and adopts it is convinced by the benefits that it brings in relation to the old norms. Persuasion is highly effective when the advocacy or claims are made by “in-groups” or culturally recognized authorities such as scientists, doctors, religious leaders, rather than “out-groups”⁶⁰ who are perceived as more credible. This is why Islamic groups in Jordan have so much influence on the norm changing process because they are seen as representatives of the high moral values

⁵⁶ Risse and Sikkink, 5

⁵⁷ IBID

⁵⁸ IBID

⁵⁹ Johnston, 496

⁶⁰ Johnston, 497

shared by the majority of the population. The idea of credibility is also important to the Acharya's analysis of localization. The localization process describes states as active borrowers or localizers of international norms and not as passive recipients of norms and ideas. This process is about the transmission of ideas where norm changing states "borrow foreign ideas and norms and fit them into their local traditions and practices, making them more acceptable and better received in the local context than if they were simply transplanted"⁶¹. Localization is made possible when there is a connection between the local and international levels. Countries with active civil societies that are connected with transnational networks are more successful in localizing international norms than countries that participate less internationally.

The involvement of Islamic groups in addressing women's issues in Jordan gives credibility and legitimacy to any changes in the legal asocial spheres because "they are seen by their target audience as upholders of local values and identity and not simply 'agents' of outside forces or actors"⁶². As such, localization via Islamic groups in Jordan ensures that the norms to ideas to be adopted and localized fall within Muslim values and do not violate the Islamic laws and beliefs. At the same time, the involvement of Islamic groups in norm-taking can actually delegitimize the localization process if the majority of Jordanians become skeptical of these groups' intentions and values towards the rights of women. Sometimes, domestic advocacy groups can engage in a discursive process to delegitimize Islamic groups and render them less influential in the localization process. Nawal Faouri, the first woman to be nominated to serve in the Shura council of the IAF is

⁶¹ Acharya, 244

⁶² Acharya, 248

another example of a legitimate leader; “her involvement in the Beijing preparations pushed her up the Islamist ladder. Simultaneously, her Islamist background gave her a special status within the women’s movement, representing a new trend of Islamic feminism in Jordan”⁶³. Also invoking Islam’s legitimacy in the debate on women’s rights is Arwa Kilani with the IAF women’s committee when she said in an interview that the personal status law amendments “are based on Islamic Sharia and guarantee the rights of spouses, orphans as well children”⁶⁴ which is interesting because she is invoking the high moral and social value that Islam hold within people’s lives and belief systems, and by describing the amendments as Islamic, it gives more legitimacy to the new laws and even further, it gives them more immunity from criticism or change, at least for some time.

This also links well with Joachim's framing process of creating influential allies in the political structure. Since part of persuasion depends on who is doing the framing and persuasion, then if the target audience is the government, you need allies within the government or allies who have significant influence on the government. Queen Rania is another good example of a credible authoritative figure because of her status and also because of her work as human rights advocate. This idea of organizational entrepreneurs and key figures in advancing issues resonates well in the Jordanian case. The fact that Queen Rania is a key figure and image of women’s rights and development really helps NGOs and women to mobilize and bring their issues to the decision-making arena. However, we have to be careful of these figures roles as leverage; sometimes these figures are used as political leverage by states at the international stage to say we are doing something in order to avoid shaming or to increase their prestige.

⁶³ Alatiyat & Barari, 373

⁶⁴ Alatiyat & Barari, 366

Social influence is more about adopting a norm not out of conviction but out of wanting to be a member of the pro-norm group because of certain rewards that can be gained or out of fear of certain punishments from the international community. These “rewards might include psychological well-being, status, a sense of belonging, and a sense of well-being derived from conformity with role expectations. Punishments might include shaming, shunning, exclusion, and demeaning, or dissonance derived from actions inconsistent with role and identity”⁶⁵. For example, some governments adopt gender quotas, as was done in Jordan, simply in order “to appear ‘modern’ and in tandem with changing international norms” without taking the more substantial measures necessary to empower women⁶⁶. One reading of Jordan’s quota system is that Jordan wanted to continue receiving foreign aid, which goes well with the idea of adopting norms without being convinced just to be part of the international community and benefit from the aid and rewards of the international community and wanting to become like the liberal states making up this international community. This view is supported by the testimony of a male in the Shura council, the Islamic advisory council in Jordan who said that women who participate in the political process are not actually listened to or taken seriously even when they are involved⁶⁷.

An eloquent summary of the dynamic relationship between key actors and their discursive claims to influence the norm change process is the conclusion that Alatiyat and Barari draw from their analysis, which applies to all key actors in women’s rights:

The significance of women’s issues, representation and role in the Islamic

⁶⁵ Johnston, 499

⁶⁶ David & Nanes, 277

⁶⁷ Alatiyat & Barari

Movement, it is that their stands on such issues are reactive and responsive to national debates about these issues. In fact, we have seen that, the more aggressive the debate on women's rights has been, the more effect it had on their political agenda and position.⁶⁸.

Effective ratification

Thus far, I have argued that Jordan's middle positioned political system is the key factor in creating a contested process of CEDAW ratification and application. I am also arguing that this middle position is the reason for the successes, albeit slow and minimal, in advancing women's rights through CEDAW. Simmons' analysis of treaty compliance will shed light on why middle countries see the most impact domestically from international treaties.

Treaty commitment is important because it sends a signal to the international community, as well as the domestic stakeholders, that the state is serious about addressing certain issues. Treaty compliance is even more important because it entails the actions and legal changes to prove the seriousness of the commitment. Simmons argues that international human rights treaties are most effective thanks to domestic factors more so than international ones. They can influence domestic politics in three ways: they alter national agendas; they leverage litigation; and they empower political mobilization. Treaties are not the panacea for addressing human rights issues but "they are causally meaningful to the extent that they empower individuals, groups, or parts of the state with different rights

⁶⁸ Alatiyat & Barari, 377

preferences that were not empowered to the same extent in the absence of treaties”⁶⁹. What is interesting about international treaties is that they are negotiated at the international level yet their primary stakeholders are domestic agents, and these are the potential agents of change.

Jordan is undergoing a series of social and political reforms. The Queen champions the issue of women’s rights and has set it as one of her priorities. Jordan’s ratification of CEDAW can now affect and influence the set of policy options of the government so that it can give more attention to women’s rights, “potentially shifting rights reform to a higher position on the national agenda”⁷⁰. From the legal perspective, international treaties are also effective because they are or they create domestically enforceable legal obligations. Finally, and most importantly for Jordan’s case, is the political mobilization that treaties can greatly influence. Simmons argues that human rights groups mobilize politically because of “the value they place on the rights in question and the probability that they will be successful in their demands”⁷¹. Value and probability are the two key concepts that will give insight on why middle countries experience the most impact from ratification. International treaties are useful because they potentially raise both value and probability; they introduce rights claims to claimants, which makes them not only value the treaty but value the right itself. Treaties carry a lot of meaning and information in them. The efforts of transnational networks to influence the content of treaties is important because it brings them as close to reality as possible.

⁶⁹ Simmons, 125

⁷⁰ Simmons, 128

⁷¹ Simmons 136

This information can be new to many local groups and individuals and potentially very empowering. If the information is shared and disseminated well enough, the value of the rights in question will increase. Treaties are also used by activists as an important resource; “invoking legal norms to regulate behavior is an effective way of asserting a political or social demand, because it grounds one’s claims in the legitimacy of law”⁷². International human rights treaties as a resource can therefore increase the probability and likelihood of success.

How does Jordan fit into this analysis? Because treaties raise the value of rights, the setting in which the most potential value can be found is not in a liberal democracy where most rights are guaranteed and respected but in a repressive or discriminatory regime setting⁷³. People who feel violated by their governments are the ones to value human rights the most and want to see change. But value is not the only factor; probability of success is the other important factor for successful political mobilization and effective change. Treaties are most effective in settings where there is a higher probability of success, which means they cannot be in totally repressive or authoritative regimes since those regimes will simply repress any activism. The highest probability of success is in liberal democracies where the freedom to mobilize and express discontent is met with governments who will most likely listen and act. These countries however, are the ones who do not value mobilization as much as people in repressive countries do. The equilibrium of the value and probability equation is the middle countries; we are likely to see the most

⁷² Simmons, 139

⁷³ Simmons, 151

significant impact in “the less stable, transitioning ‘middle ground’ countries”⁷⁴ where value is high because rights are not entirely respected and probability is high because the political system still gives civil society and political parties room to engage in debates and activities to change policies. Jordan is therefore an example of that equilibrium. The vibrancy of the debates on women’s rights is a manifestation of the high value placed on this issue. Jordan’s connectedness with the international community, both at the formal state level but also at the transnational advocacy level, gives it more resources and support for activism and change. There is also support for women’s rights from domestic actors, both material and intangible. Finally, the functioning political and legal institutions in Jordan, despite their flaws, provide agents of change the opportunity for success.

Conclusion

Jordan’s middle political system has created a contested CEDAW ratification and application process but one that is having positive effects both in legal and social terms. Contested because of the multiple important actors in the women’s rights arena, fighting for legitimacy as norms setters on this issue. The process is also successful because of the dynamism in debates and activism on women’s rights. I have argued that Jordan’s middle positioned political system fits into Simmons’ analysis of where treaties have the most impact domestically. Jordan’s advocates for women’s rights value significantly this issue and look to change policies to improve the situation of women, and they also face a higher

⁷⁴ Simmons, 153

probability for success in their demands than their counterparts in more authoritative regimes.

There are two very important policy implications for these findings. Firstly, it encourages the women's movement in Jordan to continue their activism and engagement with government and other key actors. Secondly, and most importantly, it means that the current state in which Jordan finds itself both politically and socially is very critical for shaping policy on women's issues. This could be a very important window or opportunity for domestic groups to increase their activism and their demands. If now is the ideal time for CEDAW's effectiveness than women's groups should make use of this legal tool to advance their cause.

Bibliography

Acahrya, A. How ideas spread: whose norms matter? Norm localization and institutional Change in Asian regionalism. *International Organization*, 58:2, pp239-275, 2004.

Alatiyat, I & Barari, H. "Libertaing Women with Islam? The Islamists and Women's Issues in Jordan" *Totalitarian Movements and Political Religions*, Vol. 11, Nos. 3–4, 359–378, September–December 2010

Andrew Hurrell, *On Global Order: Power, Values, and the Constitution of International Society*, (Oxford: Oxford University Press, 2007), Chapter 1, pp 1-24

Association Démocratique des Femmes du Maroc. Report on the Application of the CEDAW in the Arab world. May 2009.
<http://cedaw.files.wordpress.com/2009/07/adfm-report-on-the-application-of-cedaw-in-the-arab-world.pdf>

Barnett, Michael. " Bringing in the New World Order: Liberalism, Legitimacy, and the UN, " *World Politics* , 49(4), 1997, pp. 526-52.

Bunting, Annie. "Stages of development: marriage of girls and teens as an international human rights issue." *Social & Legal Studies* 14.1 (2005): 17-38.

<http://sls.sagepub.com/content/14/1/17.full.pdf+html>

CEDAW report,
<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article16>

CEDAW Committee Report on Jordan,
<http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-JOR-CO-5.pdf>

Clark, J & Young A. “Islamism and Family Law Reform in Morocco and Jordan”
Mediterranean Politics, Vol. 13, No. 3, 333–352, November 2008

David, A & Nanes, S. The Women’s Quota in Jordan’s Municipal Councils:
International and Domestic Dimensions. *Journal of Women, Politics & Policy*,
32:275–304, 2011.

El-Masri, S. Challenges facing CEDAW in the Middle East and North Africa. *The
International Journal of Human Rights*, Vol. 16, No. 7, October 2012, 931– 946

Goodman, R & Jinks, D. How to Influence States: Socialization and International
Human Rights Law. *Duke Law Journal*, 54:3:621, 2004.

Goodman, R & Jinks, D. Incomplete Internalization and Compliance with Human
Rights Law. *The European Journal of International Law*, 19:4:725, 2008.

Government of Jordan website on Jordanian Laws – 1976 Personal Status Law
http://www.lob.gov.jo/ui/laws/search_no.jsp?no=61&year=1976

Government of Jordan website on political system,
<http://www.kinghussein.gov.jo/government.html>

Huesseini, R ‘The Status of Women in Jordan 2004–2009,’ in *Freedom House
Report* (Freedom House: Washington, DC, 2010).

Joachim, J. Framing Issues and Seizing Opportunities: the UN, NGOs and
Women’s Rights. *International Studies Quarterly*, 47:2:247, 2003.

Johnston, Alastair Iain. "Treating International Institutions as Social Environments." *International Studies Quarterly* 45(4), 2001, pp: 487-515.

Keck, Margaret and Kathryn Sikkink. "Transnational Advocacy Networks in International and Regional Politics," *International Social Sciences Journal*, vol.51, 1999, pp.89-101.

O'Donnell, Thomas. The Margin of Appreciation Doctrine: Standards in the Jurisprudence of the European Court of Human Rights. *Human Rights Quarterly* , Vol. 4, No. 4 (Winter, 1982), pp. 474-496

Ramadan, Tariq. "Radical Reform: Islamic Ethics and Liberation". Oxford University Press, 2009.

Risse, T, Ropp, S & Sikkink, K. The Power of Human Rights: International Norms and Domestic Change (Introduction and Chapter 1 by Risse and Sikkink) Cambridge University Press, Cambridge, 1999.

Simmons, Beth. "Mobilizing for Human Rights: International Law in Domestic Politics". Cambridge University Press, New York 2009.

Susan Park, "The Role of Transnational Advocacy Networks in Reconstituting International Organization Identities", in *Seton Hall Journal of Diplomacy and International Relations*, 2004 (available at: <http://se1.isn.ch/serviceengine/FileContent?serviceID=PublishingHouse&fileid=03B2DB93-2756-E6A2-ECFB-664D61F09B4D&lng=en>).

Sending, Ole Jacob and Iver B. Neumann. [“Governance to Governmentality: Analyzing NGOs, States, and Power”](#), *International Studies Quarterly*, Vol. 50, 2006, pp 651–672.

Shachar, A. *Multicultural Jurisdictions: Cultural Differences and Women’s Rights*. Cambridge University Press, Cambridge, 2001.

Steiner et al. “International Human Rights in Context: Law, Politics, Morals”. Oxford University Press, Oxford 2008.

UNDP, *The Arab Human Development Report 2005*, <http://www.arab-hdr.org/publications/other/ahdr/ahdr2005e.pdf>

Warrick, Catherine. “Law in the Service of Legitimacy: Gender and Politics in Jordan”. Ashgate Publishing, Surrey 2009.

Welchman, Lyne. “Family, Gender, and Law in Jordan and Palestine” in *Family, Gender and Law in a Globalizing Middle East and South Asia* by Desai & Cuno. Syracuse University Press, New York 2009.

Wendt, Alexander. “Anarchy is What States Make of It: The Social Construction of Power Politics,” *International Organization*, vol.46, 1992, pp.391-425.

World Bank, *The Economic Advancement of Women in Jordan: A Country Gender Assessment*, <http://siteresources.worldbank.org/INTMNAREGTOPGENDER/Resources/JordanCGA2005.pdf>

