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Conny Roggeband

International women's rights: Progress under attack?

Berlin Potsdam Research Group „The International Rule of Law – Rise or Decline?“

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International women's rights: Progress under attack?*

Conny Roggeband¹

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Abstract:

This paper explores current contestations of women's rights and the implications thereof for international legislation. While contestation over women's rights is a far from new phenomenon, over the past two decades opposition to gender equality has become better organized at the transnational level, mobilizing a dispersed set of state and non-state actors, and is becoming more successful in halting the progress of women's rights. I argue that the position of oppositional actors vis-à-vis women rights activism appears to be strengthened by two recent political developments: democratic backsliding and the closure of civic space. Some preliminary findings show how these interrelated developments lead to an erosion of women's rights at the national level. Governments use low key tactics to dismantle institutional and implementation arrangements and sideline women's organisations. Next, I explore the implications of these developments for gender equality norms at the national and international level. The active strategy of counter norming adopted by conservative and religious state and non-state actors, designed to circumvent and also undermine Western norms, is increasingly successful. In addition to this, the threatened position of domestic actors monitoring compliance of international treaties, makes the chances of backsliding on international commitments much higher.

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1. Introduction

During the second half of the 20th century, international legislation on the rights of women started to develop, the most comprehensive being the United Nations (UN) Convention on the Elimination of Discrimination against Women (CEDAW). In particular the 1990s, marked a period of unprecedented progress in global gender equality rights. Women's rights activists successfully used the available human rights framework to target international organisations with the claim that "women's rights are human rights" which culminated in the adoption of a number of conventions like the Declaration on the Elimination of Violence against Women (1993), the Inter-American Convention for the Prevention, Punishment and Elimination of Violence against Women (Belém do Pará Convention) (1995), the Universal Declaration on Democracy (1997) and the Optional Protocol on the Convention on the Elimination of All forms of Discrimination against Women (1999).

While some voices have argued that this expanding body of international law is not necessarily effective at improving human rights conditions on the ground, other studies point to its significant impact. Simmons (2009) demonstrates that the ratification of human rights treaties positively influences state-society relations, empowering domestic actors to press for treaty implementation. International treaties make an important positive contribution to advancing women's rights, particularly in partially democratic and transitional contexts. Also, the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW) is shown to have a statistically significant and positive effect on women's rights, in particular their political rights and to a lesser extent their social rights, despite its weak enforcement mechanisms (Englehart and Miller 2014).

The global progress in the adoption of women's rights legislation in the mid-1990s was noted with dismay by conservative and religious state and non-state actors who started to mobilize to contest these rights. At the 1995 Beijing conference they made some small but significant inroads, including blocking the inclusion of sexuality rights in outcome documents (Chappell 2006). This created the impetus to seek further collaboration between conservative actors within the framework of the UN conferences. An alliance between a wide range of conservative groups such as fundamentalist religious groups, both Christian and Islamic, and states with conservative governments that share a particular conservative and traditional perspective on gender issues emerged seeking to contest, undermine, and prevent further progress of women's rights internationally (Chappell 2006). This coalition operates and mobilizes both at the transnational and national level to act in favor of traditional family values and roles for men and women and thus counteract gender equality progress.

Over the last decade, oppositional forces have become stronger and better organized (Bob 2012; Halperin-Kaddari and Freeman 2016). Since 2009, the UN Human Rights Council adopted several resolutions calling for reinterpretation of human rights in accordance with traditional values, challenging the right of women to equality in the family, established in the Universal Declaration of Human Rights (Raday 2015; Halperin-Kaddari and Freeman 2016). The successful transnational counter mobilization of conservative and religious non-state and state actors potentially threatens existing international agreements and commitments and may undermine the work of international organizations and treaty monitoring bodies (Alston 2017). As a result of this threat, women's organizations have to invest most of their time and energy in protecting rather than expanding on the status quo reached in Beijing (Hannan 2013).

This chapter explores current contestations against women's rights and the implications thereof. First, I discuss norm diffusion as an inherently contentious process of change, stepping away from norm diffusion theories that stress compliance or norm internalization. Instead, I stress norms as sense-making processes or 'works-in-progress' (Krook and True 2012: 104) that are constantly renegotiated and change as they travel. Next, I examine the concerted efforts by conservative state and non-state actors to oppose women's rights norms, the strategies and counterframes that these deploy and the political arenas they use. I then move on to argue how current political developments create favorable opportunities for these oppositional actors to amend or revert women's rights. I ask what the implications of these developments are for gender equality norms at the national and international level. Do we see a regression in women's rights? How resilient are existing international norms in face of the strong transnational opposition to gender equality and unfavorable opportunity structures to further advance a women's rights agenda?

2. Norm diffusion as contentious process of change

Translation of international norms to national policy making always implies transformation of such norms (Van Eerdewijk & Roggeband 2014). Not only is the emergence and negotiation of international women's rights subject to political struggle, but this struggle continues after the adoption of international norms (*ibid.*). Much of the norm diffusion literature treats international treaties or agreements as well-defined 'fixed' products to be ratified, adopted and internalized at the national level (Krook and True 2012). Processes of meaning making, interpretation and contestation are only seen to be part of the norm emergence stage (Van Kersbergen and Verbeek 2007). Yet, the adoption of international norms in general and gender equality norms in particular 'may initiate rather than resolve struggles over its exact content' (Krook and True 2012: 110).

Gender equality norms challenge existing gender norms and require deep regime change (Van Eerdewijk and Roggeband 2014). Norms about gender relations and sex roles are embedded in social systems that link and structure ideas and practices and tend to reproduce themselves. Gendered inequalities and resistances to women's rights are often justified by referring to existing norms and beliefs (*ibid.*). Attempts to end violence against women, for example, challenge the classic political division between public and private, question what is acceptable and unacceptable behaviour, and how rules and procedures need to be altered to protect women, and men, from gender-based violence. Such regime change is likely to meet with resistance from the actors whose principles and norms are challenged. Consequently, it requires dealing with power relations and processes, and with resistances and resilience, not only in the emergence, but also in the diffusion of norms (Keck and Sikkink 1998: 35).

Understanding diffusion of norms in terms of normative change or regime change resonates well with views in which policy processes are seen as contests between actors competing over different definitions of problems, causes, and solutions. This view is well captured by the notion of framing processes, because the meaning of norms is not exogenously given, but subject to 'politics of signification' (Benford and Snow 2000: 613). Defined as standards of appropriateness, norms are inherently contested, and their meaning is negotiated in and between the frames employed by the variety of actors engaged in these processes (Benford and Snow 2000: 614). These framing processes result in the 'stretching' and 'bending' of norms (Lombardo, Meier and Verloo 2009). Processes of framing are central to all stages of norm production and diffusion, as they all entail

negotiation and change, and are contentious because the process generates frames that not only differ from, but also challenge existing ones.

International women's rights are not unequivocally defined and leave room for different interpretations. The content of international norms tends to be vague, and at times even contradictory. The human rights framework, which presumably is an organic whole that spells out conditions for life in dignity, contains important internal tensions (Zwingel 2017). There are also tensions between international norms, for instance between norms on trade liberalization and gender mainstreaming (Pollack and Hafner-Burton 2010; Van der Vleuten et al. 2014). This ambiguity, on the one hand facilitates the spread of international norms to different places and arenas because it allows different actors to inscribe them with their own interpretations (Krook and True 2012). On the other hand, it also makes norms open to continuous amendments and (re)interpretations. Norms are thus by definition unsteady as Zwingel (2017, 19) argues, and this unsteadiness has to be studied in movement between different contexts and actors.

a) Opposing women's rights

The development of an international women's rights framework has been contested all along (Chappell 2006; Zwingel 2017), and the Holy See has been among the first and most prominent leaders of this opposition (Chappell 2006). Over time, opposition and protests against gender equality and sexual rights have become more vocal, more global and better organized. Actors include religious groups and conservative liberal actors, right wing populist and nationalist groups and more recent actors such as the anti-gender ideology movementsⁱⁱ and men's rights groups (Blais and Dupuis-Déri 2012; Kuhar and Paternotte 2017; Roggeband 2018). What these actors share is a conservative and patriarchal view of gender relations, stressing that men and women are different and have different roles in the family and public sphere. They defend heterosexual marriage and family relationships as a divine or natural norm. This motivates their struggle against the expansion of international women's rights and gender equality (Chappell 2006; Sanders 2017). In this section I discuss what this opposition to gender equality norms looks like, addressing key questions like: who are the actors that oppose women's rights transnationally, how are they organized, and what are the tactics and frames they use?

The origin of a transnational network against the expansion of gender equality norms can be traced back to the mid 1990's, when the Vatican first allied with Muslim countries. During the preparations of the 1994 Cairo International Conference on Population and Development (ICPD) the Vatican sought the support from Libya and Iran to oppose language on women's rights and reproductive rights in the document (Chappell 2006). To explain this move the Vatican spokesman, Joaquin Navarro Valls, said that "The positions of some of the delegations going to Cairo, coming from different countries, different backgrounds, and certainly not from a Catholic and even Christian background, are now closer to the position of the Holy See." (New York Times 18/08/1994)ⁱⁱⁱ. During the 1995 Fourth World Conference on Women (FWCW) in Beijing, and the two follow-up Beijing Conferences held in New York in 2000 and 2005, opposition forces became increasingly obvious and organized (Chappell 2006). A fluid coalition emerged comprising states (countries with a strong Roman Catholic heritage, governments with an Islamic orientation, and the US under the Bush administration), state-like actors and international organizations (including the Vatican, the Organization for Islamic Cooperation, the League of Arab Countries and the UN Africa group), and non-state actors like Christian Right and pro-family groups that joined forces to block

the further advancement of international women's rights.^{iv} Chappell labels this transnational conservative networking against gender equality an "unholy alliance," because the actors in the coalition "differed on many fundamental matters of international politics, and because it includes representatives of two of the world's major religious blocs – Christianity and Islam – which have diametrically opposing views on many issues" (2006, 492).

Often in tandem with the Vatican, the Organization of Islamic Cooperation (OIC) acted as a powerful player opposing gender equality. OIC is an international organization with 57 member states that holds bi-annual conferences on Women's Role in the Development of OIC Member States (Zwingel 2017). These conferences underline the important role of women in OIC states, in particular within the family. While the conference documents recognize some issues of gender inequality like high levels of poverty among women or violence against women, they oppose the recognition of women's reproductive and sexual rights. OIC has used UN forums such as the Human Rights Council (and its predecessor the Commission on Human Rights) to (unsuccessfully) undermine the Human Rights Council's resolution 15/23 on the elimination of discrimination against women by proposing to insert wording that would have allowed states with effective discriminatory laws to maintain that status quo. Together with the Vatican, OIC blocked a resolution in the Commission on Human Rights that would have recognized sexual orientation as a possible source of discrimination (Zwingel 2017).

Another source of opposition are conservative pro-family NGOs, which are principally US- and Canada-based organizations that focus either on national-cultural tradition (e.g., the Heritage Foundation), religious and family values (e.g., the Catholic Family and Human Rights Institute and conservative evangelical organizations like the World Family Policy Center, the Howard Center, and the Family Research Center), or promoting an "alternative female voice" to counter the perceived dominance of "radical feminists" (e.g., Concerned Women for America and REAL Women of Canada). These conservative North American NGOs have forged coalitions with NGOs in Islamic, Catholic and post-soviet states. For instance, the World Congress of Families, a loose coalition of pro-family and pro marriage Christian organizations from around the globe was launched in Moscow in 1995 by North American and Russian sociologists. It organized bi-annual world conferences in Prague, Geneva, Mexico City, Warsaw, Amsterdam, Madrid, and Sydney. In 2017, this congress was held in Hungary, where the populist right wing prime minister Orban opened the conference. In 2016, the World Congress of Families formalized its structure and now operates under the name International Organization for the Family, which is headquartered in the US and links organizations from North America, Latin America and post-soviet countries. The conservative Spanish organization HazteOir founded in 2001, launched the international platform CitizenGo in 2013 that has local branches in Europe, Latin America and Russia. The platform coordinates large-scale e-petitions to influence national politics in relation to reproductive and sexual issues in 2013. In 2015, Belarus, Egypt and Qatar established the Group of Friends of the Family (GoFF). On the occasion of the International Day of the Family in March 2016, GoFF organized the United Nations for a Family Friendly World event at the ECOSOC Chamber to promote the family as the "natural and fundamental group unit of society" and to remind the UN of their obligations "in binding international human rights instruments to protect and safeguard the family formed by the union of a man and a woman in marriage."^v This event was supported by C-Fam, The Family Research Council, HazteOir and CitizenGo. Many of these NGOs have a consultative status with UN Economic and Social Council.

What these oppositional actors share is that they do not acknowledge CEDAW as a legitimate document and refuse to accept the CEDAW Committee as an authoritative interpreter of the meaning of women's rights (Zwingel 2017). Yet, somewhat paradoxically, they strategically employ the language of international human rights declarations and treaties to actively oppose women's rights or propose alternative interpretations of existing norms (Sanders 2017). These states and non-state actors are effectively using the platforms provided by the UN conferences to become better organized, develop new information channels and structures, and create shared counter frames.

b) Counterframing

Conservative activists have increasingly adopted those human rights frames and terminology they previously rejected to influence the international agenda (Chappell 2006; Sanders 2017). Human rights have become a central site of normative contestation, where both women rights activists and conservative actors promote contrasting interpretations of human rights. Both camps position themselves as proponents of human rights, but refer to different human rights in support of their own positions (Bob 2012; McCrudden 2015). Conservative and religious actors that oppose women's rights often refer to some specific elements of the Universal Declaration of Human Rights (UDHR) like 'the right to life' (article 3), and 'the family as the natural and fundamental group unit of society' that 'is entitled to protection by society and the State' (article 16c). These human rights are interpreted in ways that oppose certain elements of CEDAW or other international conventions.

The right to life article has been used to resist the inclusion of reproductive rights in human rights conventions. CEDAW affirms women's right to reproductive choice: women should be able 'to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights' (article 16.e). The CEDAW Committee has operated cautiously to avoid major confrontations about this issue. Accordingly, it adopted the position that women's reproductive health includes good coverage of their reproductive needs during pregnancy and as mothers and that women should be able to determine the number and spacing of children (Zwingel 2017). The Committee also used the concept of unwanted pregnancies and views both teenage pregnancies and abortions as an expression of this, framing it as a violation of women's reproductive rights. Also, the Committee frequently recommended making emergency contraception available, as a means that some abortion opponents are willing to accept (ibid.). In relation to abortion, the Committee has mainly argued for decriminalization (Zwingel 2017). Yet, in 2015, the UN Human Rights Committee drafted a General comment No. 36 on article 6 of the International Covenant on Civil and Political Rights, on the right to life, that explicitly takes up the issue of abortion. According to the draft text:

any legal restrictions on the ability of women to seek abortion must not, inter alia, jeopardize their lives or subject them to physical or mental pain or suffering which violates article 7. States parties must provide safe access to abortion to protect the life and health of pregnant women, and in situations in which carrying a pregnancy to term would cause the woman substantial pain or suffering, most notably where the pregnancy is the result of rape or incest or when the fetus suffers from fatal impairment. States parties may not regulate pregnancy or abortion in a manner that runs contrary to their duty to ensure that women do not have to undertake unsafe abortions. [...]. Nor should States parties introduce humiliating or unreasonably burdensome requirements on women seeking to undergo abortion. The

duty to protect the lives of women against the health risks associated with unsafe abortions requires States parties to ensure access for women and men, and, in particular, adolescents, to information and education about reproductive options, and to a wide range of contraceptive methods. States parties must also ensure the availability of adequate prenatal and post-abortion health care for pregnant women.^{vi}

This text was opposed by conservative states and NGOs. Russia and the United States both argued it was inappropriate to include abortion in this article. Poland argued that Article 6 was envisioned to 'protect the life of every human being in every stage of its development, as the inherent dignity of a human person starts with the very first moment of its existence'.^{vii} Along the same line conservative NGOs advocated an interpretation of the right to life as a right that starts at the moment of conception. For instance, the International Organisation for the Family advocated a 'language acknowledging the inherent right to life of unborn children'.^{viii} The NGO Culture of Life Africa claimed that the draft 'completely ignores the right to life of the unborn child, who is no less a member of the human family than an infant, a prepubescent, pubescent, adolescent, or an adult. S/he forms part of the continuity of human life, and to ignore children in the womb is discriminatory.'^{ix} Also, several NGOs questioned the authority of committee to "reinterpret" article 6. C-Fam argued that '[abortion] are not issues that should be decided or resolved by an unelected, unaccountable, and mostly obscure committee of experts in Geneva'^x and CitizenGo declared that 'reinterpreting –as is pretended – that the treaties appeal to the "right" of abortion is against the literalness of these and implies a ABUSE OF AUTHORITY OF THE MANDATE.'^{xi} The process of drafting is still ongoing and it remains to be seen if oppositional actors successfully block this inclusion of abortion.

Another article of the UDHR frequently used to argue against gender equality is article 16 c that positions the family as 'the natural and fundamental group unit of society' entitled to protection by society and the State. The Preamble of CEDAW acknowledges the crucial contribution of women to the well-being of family and society, but calls for a change in the traditional role models for men and women, especially concerning the education of children (Zwingel 2017). Article 5 obliges States Parties to modify social and cultural patterns based on the inferiority or superiority of either sex and ensure the common responsibility of men and women in the upbringing of their children.

Many state and non-state actors oppose this idea and instead argue for complementary male and female roles in marriage and family (Zwingel 2017). For instance, the Moroccan delegation at the Beijing conference argued that the notion of equal rights did not acknowledge the complementary roles of men and women in the family that 'had arisen in the deep consciousness of the human race' and that a clear distinction between the two was 'necessary for the physic and moral balance of children.'^{xii} The delegation of Iran argued that 'The concept of equality in our interpretation takes into account the fact that although women are equal in their human rights and dignity with men, their different roles and responsibilities underlie the need for an equitable system of rights where particular priorities and requirements of the woman in her multiple roles are accounted for.'^{xiii} The Holy See 'considers women and men as being of equal dignity in all areas of life, but without this always implying an equality of roles and functions'.^{xiv} These different roles and functions refer to what is seen by many of the opposing actors as the "natural" place for women in the family, carrying out a primary role as mothers and caretakers. In addition, pro-family frames define the "natural family" as a heterosexual marriage in which men and women have traditional gender roles (Chappell 2006). The Canadian pro-family NGO REAL Women of Canada defines the

family as ‘being related by blood, heterosexual marriage or adoption, for the spiritual, emotional, economic and social well being of the nation’.^{xv} The recent Cape Town Declaration of the International Organization of Families points to this as a “universal” ideal:

Spanning the globe, we have no common tongue, culture, or creed. We are divided by history and geography, by social customs and forms of government. But in foundations, we are united. We are of one mind on the bedrock of civil society, on the basis of that first and primordial community called the family: We affirm the dignity of marriage as the conjugal bond of man and woman. We embrace it not as the parochial practice of any sect or nation or age, but as the patrimony of all mankind.^{xvi}

Heterosexuality is seen as threatened by the concept of gender. The Holy See advanced this view in its reservations to the Beijing Platform for Action: ‘the term ‘gender’ is understood by the Holy See as grounded in biological sexual identity, male or female. Furthermore, the Platform for Action itself clearly uses the term ‘Both genders’. The Holy See thus excludes dubious interpretations based on world views which assert that sexual identity can be adapted indefinitely to suit new and different purposes.’^{xvii} This also became a key issue during the 1998 negotiations surrounding the inclusion of the term ‘gender’ in the International Criminal Court’s (ICC) Rome Statute (1998). This dispute was then resolved by the adoption of an ambiguous and strategically malleable definition of gender (Oosterveld 2014).

A final important element in the counterframes of oppositional actors are references to state sovereignty and the protection of traditional values (Chappell 2006; Sanders 2017; Zwingel 2017). Sovereignty is defended ‘in the face of the expansion of international human rights norms, especially where they are seen to conflict with traditional cultural and religious practices’ (Chappell 2006: 513). This is clear in the reservations made by Egypt stating that its compliance with the Beijing Platform for Action ‘will be conditional on complete respect for the rights of national sovereignty and various moral and religious values’ (Chappell 2006: 513). Iran, Iraq, Libya, Morocco and Tunisia made similar reservations to the document (ibid.). This language is also adopted by NGOs, for instance the NGO Concerned Women for America points to a number of affairs in which the Commission on the Status of Women ‘injects itself into domestic social and political affairs of sovereign nations,’ such as ‘indoctrination of children’, referring to CEDAW article 10 on the elimination of sexist stereotypes from school curricula and textbooks, ‘mandatory sex education and contraception, including information and advice on family planning’ (Zwingel 2017: 147). More recently, oppositional actors also deploy anti-colonial discourses arguing against the universal character of women’s rights and instead representing these as a western construct, promoted by radical feminists (Sanders 2017). These western products stand at odds with traditional norms and values. The lobby to protect traditional norms and values has become more powerful. Since 2009, a traditional values debate, led by the Russian Federation has developed in the UN Human Rights Council and several resolutions calling for a reinterpretation of human rights in accordance with traditional values have been adopted. Resolution 16/3 adopted in 2012 stated ‘that a better understanding and appreciation of traditional values shared by all humanity and embodied in universal human rights instruments contribute to promoting and protecting human rights and fundamental freedoms worldwide’.^{xviii} Many advocates and states claim this to be an attempt to undermine progress in equal family relations, thus limiting the rights of women (Raday 2015; Halperin-Kaddari and Freeman 2016).^{xix}

Conservative and religious state and non-state actors thus act as norm entrepreneurs promoting frames to defend the 'natural family' and 'the right to life', but they also act as antipreneurs (Bloomfield 2016: 330) actively resisting the norm of gender equality. They do this by contesting, blocking or reversing women's rights or proposing their alternative interpretations of human rights norms. Sanders labels this strategy as norm spoiling: 'norm spoiling is the process through which actors directly challenge existing norms with the aim of weakening their influence' (Sanders 2017: 272). She considers spoiling to be a short-term strategy, complementing the longer term strategy of establishing conservative norms that can revert the existing women's rights framework. Vinjamuri (2017) talks about a strategic backlash to human rights now that countries like Russia adopted an active strategy of counter norming, designed to circumvent and also undermine Western norms.

3. Explaining resistances to gender equality

According to social movement theory the emergence and strengthening of these oppositional networks is a predictable reaction to the significant international success to spread gender equality norms (Roggeband 2018). Social movement theory has labelled this the "countermobilization dynamics." The central idea is that movements that are successful in terms of visibility, force, and making progress will generate opposition from the groups whose interests are threatened. Yet, this opposition will only take the form of a countermovement when other more effective formal political routes are not open to them. Institutional actors such as elected officials, religious actors, or other elites may also want keep their efforts to resist gender equality change invisible by mobilizing other (social movement) actors to act on their behalf. They do this by using "an already highly aligned constituency" as well as pre-existent political, institutional, civic, and religious organizations to mount their opposition to a particular social movement (Mottl 1980: 626). The emergence of a significant countermovement often implies that movement and countermovement become engaged in sustained interaction not just with institutional politics, but also with one another (Meyer and Staggenborg 1996). Countermobilization is particularly successful when oppositional actors portray the conflict as one that entails larger value cleavages in society (ibid.). This argument is highly relevant to the emergence of conservative activism against the progress of women's rights. As Chappell (2006) argues it would be difficult to find a set of issues more morally contentious than those with which women's rights activists and conservative activists are engaged.

To understand the dynamics of international norm diffusion, we thus have to take into account the oppositional dynamics between norm promoters and their counterforces that promote competing norms. This is a useful perspective to understand ups and downs in advancing women's (international) rights. It explains how the progress in international gender equality norms was contested by multiple conservative actors at different levels. A social movement approach also draws attention to the role of political opportunity structures in explaining the resonance and success of both positions. To understand the current success of forces that oppose international women's rights, I want to point to two interrelated political developments: democratic backsliding (Bermeo 2016; Greskovits 2015), often led by (right and left wing) populist and nationalist governments, and the closure of civic space (Carothers and Brechenmacher 2014; Rutzen 2015).

First, the positions of actors contesting gender equality norms are currently increasingly backed by populist and right wing regimes that promote state projects to enforce heteronormative and patriarchal family models, in which women are situated as reproducers of nation (Baker et al. 2017;

Bishop 2017). Such agendas pose restrictions on the reproductive and sexual rights of women, but also affect their position on the labor market and in politics. Women's rights are particularly vulnerable in fragile and nascent democracies where such rights have been more recently established and where the space of civil society actors to defend such rights is limited and even shrinking (Carothers and Brechenmacher 2014; Rutzen 2015; Baker et al. 2017). The current wave of hollowing and backsliding democracies in Central and Eastern European countries (Greskovits 2015; Krizsan and Zentai 2017, Krizsan and Roggeband 2018b), but also Turkey, the United States and Latin American countries like Brazil, Nicaragua and Venezuela where populist and nationalist projects prevail may therefore lead to the erosion of women's rights, both at the national and international level. Preliminary findings indicate that backsliding democracy indeed negatively affects gender equality policies (Roggeband and Krizsan 2018). The Hungarian right wing populist FIDESZ government that took office in 2010 immediately stalled the implementation of the 2010 National Gender Equality strategy after the elections. Funds were diverted from gender equality objectives towards objectives opposing it. For example funds coming from EC Progress Fund were used for an anti-abortion campaign in ways that were challenged by EU Commissioner Viviane Reding^{xx}. In Poland, the government of the right-wing populist Euro-skeptic Law and Justice Party (PiS) that took office in October 2015 set out to reform the democratic institutional setting of Poland. Democratic backsliding in Poland has reached the threat of an Article 7 procedure from the EC. A central element of this de-democratization process is a strong anti-gender equality rhetoric in which 'gender ideology' is featured as a major threat to Polish society and Catholic family values (Gaweda 2017; Kováts 2017)^{xxi}. The government has dismantled some existing reproductive rights and domestic violence policies (Roggeband and Krizsan 2018). Funds for the National Action Plan on Domestic Violence were suspended and access to contraception was made more difficult. Also, the government proposed a total ban of abortion which it had to withdraw after massive protest (ibid.). Not only right wing regimes attack women's rights, also populist left wing regimes have been referring back women to traditional roles as caretakers, and dismantling existing gender equality policies and arrangements (Kampwirth 2010). The late Venezuelan president Chavez frequently asserted that mothers were the foundations of the Bolivarian Revolution. The Ecuadorian left wing president Correa held conservative ideas on reproductive rights and opposed a parliamentary proposal to decriminalize abortion in case of rape. Also, Correa dismantled the National Women's Council that had been in place since 1998 and that served as the central intermediate between the state and women's organizations (Lind 2012). The Nicaraguan president Ortega implemented a pronatalist agenda and dismantled feminist advances to reposition himself as a Catholic populist leader (Kampwirth 2010).

A second development, related to democratic backsliding is the diminishing civic space. Civil society organizations and in particular those defending human rights are facing increasing political restraints all over the world, including restrictive legislation to control their activities and to ban or restrict foreign funding (Christensen and Weinstein 2013; Carothers and Brechenmacher 2014; Rutzen 2015; Poppe and Wolff 2017). Since 2012, over 100 laws aimed at restricting funding, operations and registration of civil society organizations have been passed in different countries (IHRG 2016). State hostility not only entails threats to the rights of civil society, but also repressive or even violent actions ranging from disproportionate auditing as a means of control to policing and physical attacks of activists (Baker et al. 2017; Human Rights First 2017; Márton and Kerényi 2017). What is somewhat less noticed is how this closure of civic space is a gendered phenomenon that particularly affects women's rights activism. Women's rights activists are not only targeted because of the focus of their work that is often viewed as endangering "traditional values", but

opposition to women's rights also uses gendered mechanisms to restrict and repress organizations that promote such rights, including gender-based violence, harassment and intimidation (Bishop 2017; Human Rights First 2017). Next, closure is a selective process in which the space of specific civil society organizations defined as anti-state and anti-government is limited, while simultaneously the space and state support to organizations identified as pro-government is expanded (Krizsan and Roggeband 2018c). The disempowerment and exclusion of women's rights organizations is accompanied by the empowerment and inclusion of organizations with opposite values and goals. In their efforts to restrict women's rights (activism) governments are sponsoring oppositional movements and use them to influence the realm of civil society in a way that directly supports state power (Doyle 2017). Public funding of women's organizations is redirected to pro-government NGOs and the positions that women's rights activists previously held in policy processes is now given to pro-family or children's rights organizations (Krizsan and Roggeband 2018a,b). Nationalist and populist regimes use conservative, religious, anti-feminist, anti-gay or anti-immigration organizations to reinforce traditional gender norms and to recreate a traditional hierarchical patriarchal or exclusionary model of civil society (Strolovich and Townsend-Bell 2013; Márton and Kerényi 2017). Civil society becomes an ideological device to promote and justify a vision of the state promoting patriarchal family models rather than gender equality rights (Howell 2005). The closure of the civic space for women's rights defenders not only obstructs them in exercising their rights, but also limits their role in safeguarding existing gender equality policies and arrangements and preventing erosion (McBride and Mazur 2010; Krizsan and Roggeband 2018a,b).

While the implications of this dual dynamic are particularly visible at the national level, some international effects are visible too. The processes of democratic backsliding in the CEE region and the related attacks on women's rights and women's rights activism has also spilled over to the international arena particularly affecting the Council of Europe Istanbul Convention on preventing and combating violence against women and domestic violence. This binding treaty was adopted by the Council of Europe Committee of Ministers on 7 April 2011 and entered into force August 1, 2014. While the convention on the one hand can be considered a success, because almost all member states with the exception of Albania and the Russian Federation have signed the convention, it has on the other hand also raised major opposition now blocking ratification processes in the CEE region. Religious leaders, conservative NGOs and populist politicians claim that there is an intention of introducing the concept of gender in national laws through the ratification of the convention. In response to a wave of protests against so-called "gender ideology," Bulgaria opposed ratification on 15 February 2018, and Slovakia followed only a few days later on 22 February. Poland that had ratified the convention in April 2015 now threatens to back out.^{xxii} These developments highlight widespread resistance to the perceived imposition of liberal values in general and gender equality in particular. The Slovak Prime Minister Fico explained he considered the convention contrary to the constitutional definition of marriage as a heterosexual union, because of the use of the concept of gender in the Convention. In Latvia, that has not ratified the Convention yet, religious leaders have claimed that the convention opens the door for imposing on Latvia a social transformation project based on gender ideology that would run counter to the Constitution of the Republic of Latvia.^{xxiii} These resistances seem to be symptomatic of a wider backlash against women's rights in Europe and the ratification of the Istanbul Convention will be an important litmus test for the strength and resilience of international women's rights.

4. The quality of norms and implications for resilience

The quality of international norms on gender equality differs greatly, both in their substantive character and in whether they are legalized or not, and to what degree. The quality of gender equality norms can be assessed using two criteria (Van Eerdewijk and Roggeband 2014). First, norms differ in the extent to which gender issues are related to gender inequality. The gendered quality of an international norm is related to a structural understanding of gender inequality and implies that the envisioned change is also systematic, comprehensive and long term (Krizsan and Lombardo 2012). A gendered framing is usually also enhanced with the inclusion of women's voice in the policy process. The second criterion concerns the character of the norm, here we can distinguish between obligatory status (hard versus soft law) and different enforcement mechanisms, the precision of the rule and delegation of its interpretation and application to a third-party tribunal (Abbott and Snidal 2000). Abbott and Snidal claim that states often 'deliberately choose softer forms of legalization' as superior institutional arrangements (2000: 423). They argue that different factors condition states' choice of soft law, including transaction costs, uncertainty, implications for national sovereignty, divergence of preferences and power differentials (Abbott and Snidal 2000: 423). More constructivist scholars argue that soft law creates a crucial framework for conversation, in which states may gradually alter their conception of their interests and even identity. This eventually makes agreement on harder rules possible.

Do legal rules affect behavior differently from non-legal rules, or, more broadly, from norms? And are legal rules more resilient than non-legal rules? Scholars that work in the field of gender and politics have argued that soft law on gender equality tends to be more transformative, yet hard law may result to be more resilient. In a study on the diffusion and implementation of regional gender equality norms on violence and gender mainstreaming in trade and aid, Roggeband, Van Eerdewijk and Van der Vleuten (2014) concluded that stronger norms had developed in the field of violence against women, that seem to account for successful diffusion processes. International hard law has been developed to address the issue of violence against women like the Inter-American Convention for the Prevention, Punishment and Elimination of Violence against Women and more recently the CoE Istanbul Convention. Gender mainstreaming norms of the EU, SADC and Mercosur were often a combination of soft and hard law arrangements that were poorly implemented. Norms on gender mainstreaming in aid were somewhat better abided compared to similar norms in the field of trade. This indicates that not only the quality of the norm is important, but also the field in which it is issued. More systematic comparison of compliance to hard and soft norms is necessary to predict resilience.

5. Conclusion

Contestation over women's rights is a far from new phenomenon, but over the past two decades opposition to gender equality has become better organized at the transnational level, mobilizing a dispersed set of state and non-state actors, and is becoming more successful in halting the progress of women's rights. I have argued that the position of oppositional actors vis-à-vis women rights activism appears to be strengthened by two recent political developments: democratic backsliding and the closure of civic space. Some preliminary findings show how these interrelated developments lead to an erosion of women's rights at the national level, but so far we lack systematic research into how the oppositional strategies of counterframing and blocking are playing out at the international level.

Also, we need more studies that examine the consequences of the closure of civic space for the actor constellations that support international women's rights. Available research points to the central role of national and transnational women's rights activists in enhancing compliance (Van der Vleuten et al. 2014; Htun and Weldon 2018; Krizsan and Roggeband 2018). National and transnational feminist activists often form networks with critical actors in legislative, judiciary and civil society to advocate women's rights (Van der Vleuten, Van Eerdewijk and Roggeband 2014). Such advocacy networks play a central role in monitoring, safeguarding and advancing national legislation in line with international law. If such advocacy networks cannot sustain their advocacy, there is a serious danger of non-compliance, but also reversal and erosion of previous progress.

Finally, we need to understand the puzzle of symbolic compliance and façade policies (Falkner et al. 2008). This is often the case in nascent and fragile democracies. On the surface states seem to be complying with international law, and formal policies appear to be in place that tick all the boxes. Yet, looking beyond the existence of legislation and policies, into the implementation arrangements, institutions and budgets we see a different picture. This is, I think, the prominent threat in current waves of backlash against gender equality. Reluctant or oppositional governments do not necessarily (have to) withdraw from conventions or change laws to transform policies into dead letters (ibid.). We see a prevalence of low key tactics to dismantle institutional and implementation arrangements (Roggeband and Krizsan 2018). In addition we see strategies to get women's organisations sidelined, but also some very open and even physical attacks on civil society organizations like in Poland or Hungary (Human Rights First 2017). Without strong domestic actors monitoring compliance the chances of backsliding on international commitments are much higher.

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ⁱ According to Chappell this coalition included states (countries with a strong Roman Catholic heritage, governments with strong Islamic orientation, and the U.S. under the Bush administration), state like actors (including the Vatican, the League of Arab Countries and the G77), and non state actors like Christian Right groups.

ⁱⁱ Religious and conservative actors have called “gender” an ideological tool use by ‘radical’ feminists and LGBT activists to establish a post-gender society, destroying masculinity and femininity, and the divine or natural notion of complementarity of men and women. This is perceived as a threat to the “natural family” (Kuhar and Paternotte, 2015).

ⁱⁱⁱ Tagliabue, John (1994). Vatican Seeks Islamic Allies In U.N. Population Dispute, *The New York Times*, <https://www.nytimes.com/1994/08/18/world/vatican-seeks-islamic-allies-in-un-population-dispute.html>, (last accessed 10 January 2019).

^{iv} Chappell, following Buss and Herman, describes these actors as Christian Right, mainly North American conservative and orthodox religious groups who formed a coalition “around an orthodox Christian vision and defense of the traditional nuclear-family formation” (Buss and Herman 2003, xviii, cited in Chappell 2006, 494).

^v <https://unitingnationsforthefamily.org/program-events/objectives-2/> (last accessed 15 January 2019).

^{vi} Human Rights Committee, General comment No. 36 on article 6 of the International Covenant on Civil and Political Rights, on the right to life https://www.ohchr.org/Documents/HRBodies/CCPR/GCArticle6/GCArticle6_EN.pdf (last accessed 10 January 2019).

^{vii} Office of the High Commissioner of Human Rights, Draft General Comment on Article 6 of the International Covenant on Civil and Political Rights – Right to life., <http://www.ohchr.org/EN/HRBodies/CCPR/Pages/GC36-Article6Righttolife.aspx> (last accessed 10 January 2019).

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^{xi} “Reinterpretar -como se pretende- que en los tratados se apela al “derecho” al aborto es contrario a la literalidad de los mismos y supondría una clara EXTRALIMITACIÓN DE MANDATO”, Office of the High Commissioner of Human Rights, Draft General Comment on Article 6 of the International Covenant on Civil and Political Rights – Right to life., <http://www.ohchr.org/EN/HRBodies/CCPR/Pages/GC36-Article6Righttolife.aspx> (last accessed 10 January 2019).

^{xii} UN Doc. A/C.3/34/ SR. 70, para. 11, cited in Zwingel 2017, p. 56.

^{xiii} United Nations, Platform for Action, Fourth World Conference on Women, op. cit., Reservations, para. 14.

^{xiv} Cited in Chappell 2006, p. 512.

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^{xvi} The Natural Family (2016). The Cape Town Declaration , <http://familyinamerica.org/journals/new-western-colonialism/cape-town-declaration/#.Wto7UC7FLIU> (last accessed 10 January 2019).

^{xvii} UN, <http://www.un.org/documents/ga/conf177/plateng/aconf177-20-part6en.htm> (last accessed 10 January 2019).

^{xviii} <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G11/124/92/PDF/G1112492.pdf?OpenElement>.

^{xix} The resolutions received strong criticism of the Office of the High Commissioner for Human Rights, Treaty Bodies, and Special Procedures Mandate Holders, as undermining women’s right to equality. Also, several states and the European Union expressed their concern over the potential misuse of the concept of traditional values (Raday 2015; Halperin).

^{xx} See Euractiv (2011). EU funds used for Hungarian anti-abortion campaign, <https://www.euractiv.com/section/justice-home-affairs/news/eu-funds-used-for-hungarian-anti-abortion-campaign/> (last accessed 10 January 2019).

^{xxi} For example Minister of Labour Rafalska spoke against the Istanbul Convention and consequences in terms of gender, see Robert Kowalski (2016). Rząd PiS przygotowuje wypowiedzenie konwencji antyprzemocowej, OKO.press, <https://oko.press/rzad-pis-przygotowuje-wypowiedzenie-konwencji-antyprzemocowej/> (last accessed 10 January 2019); president Duda spoke against the Istanbul Convention, see Podgórska, Joanna (2017). Duda o konwencji antyprzemocowej: „Nie stosować”. Niech prezydent wyjaśni to kobietom potrzebującym pomocy, Polityka, <https://www.polityka.pl/tygodnikpolityka/kraj/1692956,1,duda-o-konwencji-antyprzemocowej-nie-stosowac-niech-prezydent-wyjasni-to-kobietom-potrzebujacym-pomocy.read> (last accessed 10 January 2019).

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The Kolleg-Forschergruppe “The International Rule of Law – Rise or Decline?” examines the role of international law in a changing global order. Can we, under the current significantly changing conditions, still observe an increasing juridification of international relations based on a universal understanding of values, or are we, to the contrary, rather facing a tendency towards an informalization or a reformalization of international law, or even an erosion of international legal norms? Would it be appropriate to revisit classical elements of international law in order to react to structural changes, which may give rise to a more polycentric or non-polar world order? Or are we simply observing a slump in the development towards an international rule of law based on a universal understanding of values?

The Research Group brings together international lawyers and political scientists from five institutions in the Berlin-Brandenburg region: Freie Universität Berlin, Hertie School of Governance, Humboldt-Universität zu Berlin, Universität Potsdam and Social Science Research Center Berlin (Wissenschaftszentrum Berlin). An important pillar of the Research Group consists of the fellow programme for international researchers who visit the Research Group for periods up to two years. Individual research projects pursued benefit from dense interdisciplinary exchanges among senior scholars, practitioners, postdoctoral fellows and doctoral students from diverse academic backgrounds.