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Introduction: Producing Reproductive Rights

The global push for women's rights has entered a new era, embodied in the #metoo campaign, worldwide mass marches for women's rights, and a popular push for reproductive rights such as in the case of the Irish abortion referendum, among many other examples. In 2018 alone, this new wave has seen legislation initiatives in Argentina, judicial challenges in Brazil, and the Kavanagh U.S. Supreme Court confirmation battle in the United States, to name a few cases. The topics of gender equality, women's physical autonomy, and abortion rights dominate headlines as much now as ever.

Around the globe, countries continue to debate gender equality in general, and in particular if and how women should have access to abortion. In the Paraguayan capital of Asunción, Casa Rosa Maria is a shelter for young mothers. Some are young teenagers. Many of these girls have been denied abortion under the country's restrictive reproductive policies. In Uzbekistan, with a Muslim majority of 90%, abortion is available on demand. At times, it's even used as a form of contraceptive. Until 2018, every year thousands of Irish women engaged in "abortion travel," hopping the channel to undergo in England a simple procedure that until recently was almost entirely illegal in their home country. These are the stories that do not always make the news. When they do, they are often treated as isolated incidents, relevant in their individual countries but disconnected from greater worldwide trends. However, policy is not made in a political void. This book poses the following question: how can we explain the dramatic differences in how countries legislate women's reproductive rights and autonomy?

We focus on three spheres of influence. The first is the level of civil society, which is analyzed in Part I of this book. The influence of civil society on policy in general is well established in the literature. Through a range of actions – such as lobbying, campaigning, and mobilizing – factors within the sphere of civil society affect policy. We isolate a single factor within civil society,

religion, as a tool to analyze the sphere's overall powers. Faith civil society is of particular importance in the context of abortion policy. What is more, for the type of comparative exercise this book offers, religion is advantageous methodologically. While civil society may consist of different types of groups and institutions in different parts of the world, focusing on religion facilitates the type of broad comparative framework we attempt here.

The second sphere is that of the nation-state. We delve into the influence of the state sphere on abortion policy in Part II of this book, examining systematic trends as well as offering some analysis of case studies. For many, this would be the first thing that comes to mind when considering questions of policymaking in general and abortion policy in particular. Our analysis of the national sphere focuses on dimensions of representation, as we examine questions related to the links between descriptive and substantive representation and their implications for abortion policy. As abortion is inherently a part of women's rights, examining female representation is critical.

Completing the analyses of faith civil society and state-level influences on abortion policy, in Part III we look at the international sphere. There are debates in the literature regarding mechanisms to explain how policy travels around the world and across borders. Some theories suggest that international institutions are the catalysts for this process. The policy they make or advocate trickles down to the states in various ways and through an array of institutions. Others suggest that diffusion among countries, in particular, neighboring countries, accounts for policy dissemination. Those debates inform our discussion of international influences on abortion policy, where we focus on one type of key player – intergovernmental organizations.

The importance of reproductive health – and specifically abortion rights – cannot be overstated. According to the World Health Organization, of the 56 million induced abortions annually, nearly half are unsafe abortions, mostly taking place in the developing world. By some estimates, one in every seven maternal deaths can be attributed to an unsafe abortion, and the annual costs of medical treatments following these procedures exceed half a billion dollars worldwide (Ganatra et al., 2017; Say et al., 2014; Vlassoff et al., 2008). Abortion rights are often used as a measure for how a country views gender equality and women's physical autonomy more broadly.

Accordingly, this book contributes directly to the United Nations' (U.N.'s) Sustainable Development Goals (SDGs) and, in particular, to SDG5, Gender Equality. Set by the U.N. General Assembly, these 17 goals are a part of U.N. Resolution 70/1: *Transforming Our World: The 2030 Agenda for Sustainable Development*. Encompassing a broad range of interrelated objectives, the SDGs cover issues of social and economic development running the gamut

from gender equality, water, health, education, and global warming to poverty, hunger, sanitation, energy, the environment, social justice, and urbanization. Of key importance to us is Goal 5: Gender Equality. The aim of SDG5 is to achieve gender equality and empower all women and girls.

The current literature on this topic provides limited information on how laws on abortion are generated worldwide. This book sets out to fill key theoretical and empirical gaps, as we explore different levels of influence on reproductive rights around the world. Combining large-scale comparative quantitative analyses with a series of case studies, the book allows us insight into some of the causal mechanisms underlying this critical aspect of the politics of gender.

This book significantly advances our knowledge of the determinants of reproductive policy. In theoretical development and in empirical scope, the project reaches beyond the Western case studies that have dominated abortion policy studies to date. We study reproductive rights using a theoretical framework that identifies the three spheres of influence discussed above: the international arena, state government, and civil society. In each sphere, we focus on agents and institutions that influence reproductive policy. We identify them and compare their degrees of influence. As such, this project takes a novel approach. Not only do we develop innovative theoretical frameworks to explain the evolution of women's rights, but we also use quantitative analysis to compare dozens of states and to observe policy development over time.

Who are the actors and players determining the norms of women's rights around the world? Do policies regarding women's rights correspond with norm change within civil society, sovereign state bodies, the international community, or some combination thereof? To examine this set of questions, we plan to look at actors in all three spheres, studying their actions both within these arenas, but also comparing influence among the three spheres. To get our discussion started, let us examine some of the key theories we use in the book. Along with these theories, we offer some examples of social media activity, which prove how timely and salient those topics are in various political settings and in different parts of the world.

THE CIVIL SOCIETY SPHERE

Walzer defines civil society as "the space of uncoerced human association and also the set of relational networks—formed for the sake of family, faith, interest, and ideology—that fill this space" (1990, p. 1). Kimmerling describes it as "all [of] the social activities that are performed outside of the state's direct

instructions, and beyond family or primordial frameworks" (Gidron, Bar, & Katz, 2004, p. 142). Edwards and Foley (1998) present two main theories of the role of civil society. Civil society can be seen as a sphere independent of the state, whose role is to push back against the state and to act as a counterbalance. The second theory of civil society sees it as a sphere unrelated to the state, where citizens can unify and come together.

In this book, we think of civil society as a "social sphere" that involves political activity but excludes official state institutions. Players in civil society include actors that function outside the confines of the state and above the level of the family unit (Salamon, Anheier, List, Toepler, & Sokolowski, 1999). For our analysis, we choose to use religion as an example of a civil society player that can have great influence over state policy. Faith civil society suits our purposes well since religion is a ubiquitous aspect of almost any culture or social group. Likewise, despite certain disagreements regarding who is included in civil society, there is a general consensus in the literature regarding the fact that religion is in this sphere. Additionally, religion is of particular interest when we examine women's welfare policy, as organized religion is often assumed to have a negative impact on the status of women and gender equality policy. Yet, this common understanding has yet to be fully tested in a comparative context. Lastly, while certain organs of civil society may not exist in all types of regimes, religion is pervasive around the world. This makes it a perfect choice for the comparative exercise we are interested in for this book, which is intended to reach beyond the democratic sphere, empirically as well as theoretically.

Naturally, by focusing on religion, we do not attempt to address multiple aspects of civil society, but rather isolate one of its features. This feature serves as an example to demonstrate the effects and powers of the sphere. We see religion as critically important and believe this trade-off is worthwhile. We leave investigations into additional important elements of civil society for future research.

In different countries, including the United States, faith civil society has made concerted efforts in the area of reproductive rights. A recent example on social media comes from a Providence, Rhode Island, bishop. Bishop Thomas Tobin called on Twitter in April 2018 for a "#metoo movement for unborn children." His was one among many tweets voicing the pro-life sentiment in a country where the question of abortion is still being constantly debated. Despite being settled constitutionally by the U.S. Supreme Court in *Roe v. Wade* over four decades ago and a long progeny of cases since, is still a major fault line in the political landscape. The influence of faith civil society is discussed in depth in Part I of the book, quantitatively in Chapter 2 and

using the case studies of Chile and Bahrain in Chapter 3. The theories developed in Part I and the findings presented also inform much of the discussion in the chapters in Parts II and III.

THE NATIONAL GOVERNMENT SPHERE

Of the different spheres we examine in this book, the state is the most obvious and direct source of policy influence. Many countries have recently seen the ground shifting in their abortion policy. A campaign in Argentina has brought the issue of abortion to the nation's legislature, with the Argentinian Senate failing in 2018 to pass a bill legalizing abortion. The fact that the bill even made it to the floor, though, and the fierce debate in parliament, suggested winds of change at the state level. In its neighbor to the north, Brazil, the possibility of changes in abortion policy is also rising via the courts.

According to the Brazilian Health Ministry[1], more than a quarter of a million women annually are hospitalized due to abortion-related medical complications, and approximately 1 million abortions are performed every year. Clandestine and unsafe abortions have cost the medical system over $130 million over the past decade and, in 2016 alone, 203 women died as a result of failed abortions. While women who can afford the trip may have an abortion overseas, a strong movement at the civil society level has pushed toward decriminalization in recent years, even in the face of a conservative government. As late as August 2018, the Brazilian Supreme Court considered whether constitutional protections made Brazil's restrictive abortion law void. Dr. Maria de Fátima Marinho, a representative of the health ministry and an activist in international bodies dealing with reproductive health such as the Pan American Health Organization, testified before the court as to the public health challenges unsafe abortions created. Dr. Maria de Fátima Marinho addressed issues ranging from improper facilities to maternal mortality rates. These two countries, Brazil and Argentina, represent 40% of Latin American women. Changes in the Brazilian judiciary or the Argentinian legislature could be momentous for women across the region.

Probably the most prominent recent example of influence from the state sphere on abortion policymaking is what occurred in Ireland. The Eighth Amendment of the Constitution of Ireland, approved by referendum in 1983, recognized the equal right to life of the mother and the unborn: "The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as

[1]   www.brazilgovnews.gov.br/presidency/ministers/ministry-of-health

practicable, by its laws to defend and vindicate that right." With close to 67% of the referendum votes cast in support of a Yes decision, the Amendment restricted both legislation and judicial interpretation of the Constitution (abortion had been criminalized in the country since 1861), allowing abortion only in circumstances where the life of a pregnant woman was at risk. This legal reality lasted several decades but changed dramatically in 2018.

Thirty-five years after the Eighth Amendment was ratified by popular fiat, on May 25, 2018, a new referendum was conducted. After years of political debate, 66.4% of voters who participated in the referendum voted Yes to the Thirty-Sixth Amendment of the Constitution of Ireland. Taking effect after the president signed it into law on September 18, 2018, this amendment permitted legislation for abortion by the Parliament of Ireland (Oireachtas). A day later, Justin Trudeau, the Canadian Prime Minister tweeted: "What a moment for democracy and women's rights. Tonight, I spoke with Taoiseach @campaignforLeo and his team and congratulated them on the Yes side's referendum victory legalizing abortion in Ireland." The political change in Ireland and the international attention it garnered reflected not only one country's change, but the global discussion it represents.

Trudeau was not alone on social media when it came to the Irish abortion referendum. Both No and Yes supporters took to the networks to influence reproductive rights in the country. Presenting themselves as "Ireland's most active pro-life organization," @YouthDefence, a far-right organization, used hash tags like #youthdefence, #savelives, and #savethe8th when waging the No campaign. On the other side of the issue was @Together4yes, a national civil society campaign supporting the repeal of the Eighth Amendment. These are but two examples of a plethora of such movements and organizations on both sides of the campaign aiming to change (or preserve) abortion policy by the national government in the Oireachtas Éireann.

Patterns of activity on social media by both local and foreign politicians and political organizations are but another expression of how different state and non-state actors influence policy. We delve into the theoretical complexity of this topic as we focus on the concept of representation – specifically, female political representation – as a significant influence over reproductive health policy. The importance of female leadership in determining state abortion policy is based on the connection between descriptive and substantive representation. This is the idea that women are best positioned to comprehend, and thus represent, the needs of women. The more women are present in the legislature, the more likely it is that women's issues are addressed. We take this theoretical discussion a step further, as we are interested in the link between descriptive and substantive representation beyond the democratic state. We

want to understand abortion policy worldwide. Do women exercise the same powers of representation around the world? The answer to this question is probably no. Yet, can they carry some influence on abortion policy beyond the sphere of developed democracies? This question is particularly interesting for us in this book, and we believe the answer here is yes.

The state government sphere and the dimensions of representation at the heart of its influence on abortion policy are examined in Part II. We focus on quantitative analyses in Chapter 4, and then briefly examine two case studies in Chapter 5: New Zealand and Rwanda. These examinations are neither comprehensive nor exhaustive. Rather, without writing an entire book about those countries, the case studies in Chapter 5 illustrate and bring to life the patterns identified in Chapter 4. They also help shed light on some of the theoretical complexities the large-N quantitative results do not address.

THE INTERNATIONAL SPHERE

A quick survey of social media reveals the many actors in the international sphere who are trying to influence state abortion policy. There is a universe of international institutions advocating abortion policy. They are going beyond traditional websites, taking to various social media platforms to promote international discussions. The International Planned Parenthood Federation (@ippf) prominently states on their website, Facebook, and Twitter that the organization is "committed to delivering sexual and reproductive healthcare services around the world." Focused on the world's disadvantaged, Marie Stopes International (@MarieStopes) uses its various platforms to promote its goal to deliver "reproductive healthcare to millions of the world's poorest and most vulnerable women." Promoting #AbortionIsNormal, one of the oldest currently active global feminist groups, @IntlWomen The International Women's Health Coalition (IWHC), states on its page that it aims to secure "sexual & reproductive rights & health for women & girls around the world." Indeed, new media has become a sphere for international players to attempt to influence abortion policy worldwide with hashtags and campaigns such as #GenderEquality, #SheDecides, #LetsTalkAbortion, #SafeAbortionDay, and #IDecide.

Of the range of bodies operating in the international sphere, in this book we focus on intergovernmental organizations. The quintessential intergovernmental institution is the United Nations. U.N. Women is a U.N. agency that, according to its Twitter page, is "the UN entity for #genderequality & women's empowerment." Thus, an implicit goal of U.N. Women is to change international norms in the area of reproductive rights. While this book is not

about social media, this handful of examples out of an ocean of social media buzz on the topic illustrate how invested the international sphere is in influencing norms of abortion policy around the world.

Global norms are the shared normative frameworks that exist among a large enough number of states and other international actors. Norms can be applied to states, intergovernmental organizations, and a variety of non-state actors (Khagram, Riker, & Sikkink, 2002). In general, norms are guides for conduct. They dictate behavior and imply what ought to be and what one ought to do (Hage, 2005; Martinsson, 2011). They are essentially the expression of a group expectation of behavioral standards (Hage, 2005; Katzenstein, 1996; Shannon, 2000). Change in abortion policy reflects a social norm concerning women's autonomy, secular definitions of gender equality, and the common view on the question about the beginning of life.

There are competing theories of why and how norms and policies diffuse. Some believe that states comply with international norms only when it is consistent with their material and security interests (Martinsson, 2011; Hyde, 2017). Others claim that states will actually accept burdensome norms imposed by the international sphere to send credible signals to other states and international entities, and to increase the share of and access to internationally allocated benefits and resources.

The key debate in the literature is between policy diffusion and the World Society framework. Both theories are based on an assumption of interdependence (Gilardi, 2012). Yet, they differ on where this sense of interdependence is communicated and how pressure is applied to and by different actors. Policy diffusion theory describes a process in which pressure for policy innovation comes from outside the polity, spreading from one state government to another (Braun & Gilardi, 2006; Shipan & Volden, 2008). The mechanisms driving policy diffusion include changing conditions in one country altering the benefits of a certain policy in another, regional influences and trends, and more information becoming available because of an experiment in a neighboring state (Simmons & Elkins, 2004; Shipan & Volden, 2008).

Within the World Society framework, policy proliferation is driven by intergovernmental organizations (True & Mintrom, 2001). Many features and norms of the nation-state are derived from global culture. The nation-state's desire to conform to World Society encourages diffusion. Within this theory, bodies such as the United Nations and the African Union (AU) serve as the "organizational frame" for World Society. Procedures defined in these international bodies can strongly influence practice at the nation-state level, even when a nation may resist the influence initially or even later on in the process (Meyer, Boli, Thomas, & Ramirez, 1997; Stone & Ladi, 2015).

In Part III, we argue that, for multiple reasons, the World Society framework – rather than the policy diffusion one – is appropriate to explore abortion policy in the context of the international sphere. Part III analyzes influences from the international sphere on abortion policy. Empirically, we present evidence for the systematic effects of intergovernmental organizations (IGOs). We argue that the stated goals – such as those stated on social media platforms – are also translated into actual policy change. Yet, the way IGOs try to influence abortion policy, how their internal debates are handled, and the final agreements they produce are of critical importance to their eventual influence. We further delve into the causal mechanisms underlying IGO influence on the production of abortion rights around the world using case studies. This sphere is addressed quantitatively in Chapters 6 and then using case studies in Chapter 7. Finally, it is further integrated into the more general debate in Chapter 8.

Data

Data for this project are taken from a variety of sources including the Global Abortion Policies Database, U.N. Population Division, the World Values Survey, the World Health Organization, the Inter-Parliamentary Union, the Quota Project, the Human Development Index, and the Polity Project.

We created a new index for state abortion policy. The U.N. Department of Social and Economic Affairs has published a global review of abortion policy periodically since 1992. All reviews published between 1992 and 2013 were examined. Seven criteria under which state law may allow access to abortion services are specified:

1. Saving a woman's life
2. Preserving a woman's physical health
3. Preserving a woman's mental health
4. In case of rape or incest
5. In case of fetal impairment
6. For social or economic reasons
7. On request

In the original index we created, the Comparative Abortion Index (*CAI*), each country-year was given a score based on the number of legal criteria accepted as grounds for abortion. In Chapter 2 we extensively detail the index and the measurement strategy involved. Countries are given a score between 0 and 7, based on the number of criteria accepted. An additional weighted index was
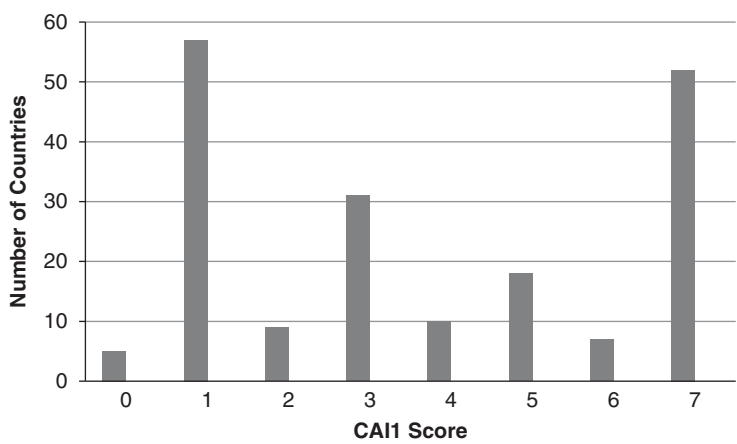
FIGURE 1.1: Distribution of CAI1 Scores Globally (1992–2013)

created that gives scores based on the frequency of all the criteria. In the following chapter, we go into the details of the index.[2]

While similar indexes have been used (Pillai and Wang, 1999; Hildebrandt, 2015), our data set is unique in its breadth and inclusion of numerous considerations. Figure 1.1 shows the global distribution from the conservative end at 0 (leftmost column) to the liberal 7 (the column on the right). The first thing that is clear is the substantial variance in how countries approach abortion rights around the world. The distribution is largely bimodal. A total of 57% of states had a score of either 1 (restrictive abortion policy) or 7 (most permissive reproductive policy). After 1 and 7, 3 was the most common score, on average accounting for 16% of states. Figure 1.1 illustrates the considerable variance in how abortion policy is distributed around the world. While many countries are permissive in their abortion policy, even more are not. The three spheres of influence we analyze – civil society, state government, and the international system – provide invaluable insight into how such policy develops and why.

CHAPTER SYNOPSES

The book is divided into three sections, each two chapters long. Each section takes up a different sphere, examining it theoretically and empirically. The first chapter in each part provides large-scale quantitative

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[2]   The full collection of indexes is included in the 2019 addition of the Quality of Government Institute Database, and can be accessed at https://people.socsci.tau.ac.il/mu/udis/the-comparative-abortion-index-project/.