

CEDAW in Tonga: Global Social Policy Analysis

Mele Mangisi

Introduction

In an increasing globalised world where global processes are becoming more complex, the growing pressures internationally and locally are urging governments to make necessary reforms towards their commitments to the Sustainable Development Goals (SDGs). Tonga is no exception and its government has made progress towards achieving many of those goals and not so much in others. Tonga is one of six countries that has not signed to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (UN Women). The United Nations (UN) adopted CEDAW in 1979 requiring signatory states to make necessary reforms to eliminate all forms of discrimination against women. The global issue of achieving gender equality links to goals 5 and 10 of the SDGs – achieve gender equality and empower all women and girls, and reduce inequality within and among countries, respectively. There had been three attempts by the Tongan government to ratify CEDAW, which were all unsuccessful due to conflicting ideas between different actors involved in supporting the ratification and the pushback by a conservative majority of the public.

This paper proposes a framework, which analyses the different actors involved in the process of ratifying CEDAW in three parts. Firstly, using the Dolowitz and Marsh model to determine the actors involved in the policy process and the motivations behind their engagements. The ideational process used by Beland suggests the importance of agenda-setting in framing policy alternatives in a way that would increase popular support without challenging traditions and cultural values. Secondly, the networks of experts that are applied to persuade policy makers by their expert knowledge is the primary motivation for policy change. Stone's epistemic communities suggests that these networks are validated by their expert knowledge, which differentiates them from other actors who seek to influence policy change. Thirdly, an unsuccessful attempt by the donors and NGOs to ratifying CEDAW because of the pushback by a conservative society. The paper will analyse the series of actors that were involved in various stages of the policy process and uses Evans' systems of ideas that identifies the 'cognitive' obstacles in the pre-decision phase, 'environmental' obstacles and the pushback by domestic public opinion. The paper demonstrates that historical institutionalism (policy legacies), the strength of epistemic communities and the authority of state, religion and cultural groups shape policy strategies and reforms.

Ideational approaches to CEDAW

The Commonwealth Parliamentary Association and UN Development Fund for Women hosted a workshop in 2015 on democracy and gender equality for the Parliamentarians and recommended that Tonga ratify the convention. The Legislative Assembly in a vote ignored this in 2009, where they believed that to ratify CEDAW “would cut across our cultural and social heritage that makes up the Tongan way of life. It would require the creation of fundamental changes for every Tongan citizen to a way of life and social organisation that has sustained Tonga to date” (2009, Matangi Tonga). Similarly, in 2011, the attempt to ratify failed because of government’s concern that the UN would not accept their reservations on several Articles that may give way to legalise same sex marriage and abortions. The demonstrations in 2015 against ratification led the King through a Privy Council decision that government’s attempt to ratify CEDAW was unconstitutional. Dolowitz and Marsh model of policy transfer puts forward that different actors are involved in various stages of the policy process depending on their interest. The global social issue in this case is gender inequality, which determines the actor-context interaction i.e. which actors matter? In addition, what are the features of Tonga’s polity? The features determine how effective local actors are, how relevant international actors are, and how important the issue is. Beland suggests several ideational approaches in providing policy alternatives attractive to policy-makers (agenda-setting theory). He suggests that they are “double embedded” that firstly, policy alternatives at its minimum not challenge policy legacies, and secondly, they are framed and packaged in a way that increases their support (2005, p.9-11).

Tonga’s population is roughly equal amongst the sexes but unequal in terms of labour force participation, access to finances and rights to land. Women account for only 53% compared to men at 74% of the labour force participation and women do not have independent rights to land which inhibits their access to finances. The issue of gender inequality that UNDP for Women and the Commonwealth Parliamentary Association saw was to prompt Tonga’s government to make reforms that would support their commitment to the SDGs. Beland puts forward one of the ideational approaches i.e. framing and policy entrepreneurs as a way for policy experts to reshape the policy agenda by understanding the factors that shape it e.g. electoral results, international and local pressure and public opinion (2005, p.11). The role of ideas shapes the actor-context interaction and its influence on political actors whom will have an interest in promoting them. The international and local pressures to ratifying CEDAW appeared to challenge

religious doctrines, cultural values and attacked practices that constitute women being inferior and marginalised. Whilst acknowledging that framing is a strategic approach, framing can appear to employ actors that wish to advance their interests e.g. AUSAID and NZAID mandate under their foreign policies. Beland suggests the importance of considering cross-national institutional differences to identifying the influential policy entrepreneurs (2004, p.12). Tonga's nexus with the international community such as the WB, IMF and various agencies under the UN influences many of government's policies under bilateral and conditional agreements in terms of gender equality and female representation. Despite their expectations to push for gender equality under Tonga's Strategic Development Framework 2015-2025, its strategic framing facilitated the mobilisation of actors incited by religious and cultural values e.g. church groups on abortion and same sex marriage to demonstrate against changes to a broader issue i.e. constitutional equality. The pushback by several church groups, community leaders and their supporters were distracted from the broader issue of gender equality and focused their objection on the implications of abortion and same sex marriage propagated by the media. The political salience of religion and cultural values have a prominent impact in the policy process. The Director of the Women and Children Crisis Centre mentions that the process has been a disaster from the beginning stating that, "From the get-go, the communication of this government agreeing to ratify CEDAW has been somewhat based on a lot of misconceptions, hence the reason why CEDAW has probably become the most debated issue in the political arena and also at the ground level. I haven't seen anything like this since the move towards democracy." (16 April 2015, Radio NZ News). She raises the question of what people are protecting under the auspices of religion and culture. Beland argues that policy development is path dependent in the sense that contemporary issues are shaped by previous policy legacies (2004, p.3), so the idea of ideational process is to bring the issue to the centre of the historical institutionalist framework when dealing with the political actors while maintaining the assumptions of historical institutionalism.

Epistemic Communities – process of sharing ideas and knowledge

In the last twenty-five years there has been a growing strength of international advocacy networks around gender equality that raise awareness and share ideas and knowledge across countries (Clark 2001, p.27). Developing countries are more vulnerable to external pressures and it is assumed that having international networks have a stronger impact in

the policy process. Stone's 'transfer of ideas and ideologies' targets the inputs to policy development and uses the examples of global social movements or coalitions as a 'soft' form of transfer to spread norms and standards (2012, p. 484). In response to the opposition against the ratification of CEDAW, a Tongan Women in Leadership Coalition (TWLC) comprising of thirteen NGOs to petition the government to ratify the convention. The petition was signed by two MPs, of which one was the Minister of Internal Affairs and responsible for women's affairs and three independent women, one who is a church Minister, Reverend 'Ungatea Fonua Kata. Ms. Guttenbeil-Likiliki stated that the petition is based on their knowledge of the convention and the impact it will have in lifting the standards of living for women in Tonga. She mentions that the petition does not attempt to undermine existing religious and cultural values and practices (9 September 2015, WCCC News).

Stone's work on 'epistemic communities' reinforces the role of global social movements and coalitions where experts on an issue come together as a network and legitimise their agency through the production of their knowledge. They become authoritative as the producers of knowledge and therefore have a stronger influence in the agenda setting (2012, p.488). The inter-governmental organisations involved e.g. UNDP for women, Pacific Leadership Programme under the AUSAID, NZAID have provided dedicated support and guidance to the TWLC prior, during and after the submission of the petition to a transitioning government. Their support was not unconditional and that bi-lateral agreements between major donors and government did not discriminate against women. Some examples required NGOs to have government elected officials sitting on boards to ensure decisions were subject to government oversight (NZAID Report 2008). The motivation behind epistemic communities differ from other transnational actors in the sense that they rely on their expert knowledge which legitimises their approach to translate that knowledge to power otherwise they lose authority with political actors and policy makers. The state and nonstate actors often engage with transnational organisations that have a claim to expert knowledge (Cross 2013, p.143). The relationship of the epistemic community and the state is key and the TLWC with their links to transnational advocacy networks appeared to have ready access to decision makers in government offering solutions without being too disruptive. Ms. Guttenbeil-Likiliki states, "More strategically we are coming together as heads of organisations that work on the ground, that work with vulnerable groups, that work with women who are not your average privileged Tongan women who have access to all her social, economic, political and

cultural rights. We work for the women who have no say, who are voiceless." (25 May 2015, Radio NZ). However, what if the epistemic community's production of knowledge is reflecting their own values and interest rather than proffering expertise? One of the main concerns for pushback is that the ideas for gender equality is a foreign one that challenges national context. "CEDAW's content is contemporary colonialism; it exports ...forces down the throats of signee nations ... its Neo-Marxist agenda." (October 2009, Matangi Tonga). There has been criticism that epistemic communities will have to engage in political activism and like political actors rely on bargaining rather than persuasion by their claim to knowledge (Cross 2013, p.140) and to consider the political context which epistemic communities exist. Context is significant because it determines the barriers for an epistemic community to transfer ideas successfully. The Office of the High Commissioner for Human Rights (OHCHR) in the Pacific was aware of the situation and worked with government in ratifying the convention. The OHCHR in the Pacific has a mandate to promote and protect human rights across the Pacific. In 2012, it facilitated a workshop in Tonga for local and international actors to discuss one of the human rights issues around countering discrimination against women (UN Human Rights Council Report 2013). The Deputy Regional Representative Catherine Phuong stated, "We are aware that there are some political sensitivities and sometimes ratification requires more discussion but is important that government and partners understand what the convention is about. We remain hopeful that ratification will proceed. CEDAW is a very important convention. It's one of the most ratified human rights treaties in the world because it addresses an issue that is important to all of us." (21 April 2015, Radio NZ).

The Pushback – what was transferred and was it successful?

In June 2015, a delegation appeared at the UN General Assembly with the intention that Tonga was to ratify CEDAW. Around the same time, a petition by church groups and conservatives sought a royal intervention to stop government from ratifying CEDAW and thousands marched the streets of Nuku'alofa in protest on the basis that the convention will legalise same sex marriage and abortion. The King in a Privy Council decision stated that, "the Privy Council is not persuaded that the process followed by the Government is in accord with the constitution." (1 July 2015, Radio NZ). Evans argues that factors constraining policy processes involve 'cognitive' obstacles in the pre-decision phase, 'environmental' obstacles in the implementation phase and domestic public opinion (2009, p.246). Often policy makers are hesitant to act beyond status quo unless there are unexpected shocks such as a failure of an existing policy or a global economic crisis

(Stone 1999, p.54). However, Stone (1999) argues that the ‘soft’ transfer of norms and ideas through transnational networks and epistemic communities may appear more receptive than ‘hard’ elements of policy transfer used in Dolowitz and Marsh’s model of policy transfer. Dolowitz and Marsh identified elements of policy transfer as “policy goals, structure and content; policy instruments or administrative techniques; institutions; ideology; ideas, attitudes and concepts; and negative lessons” (1996, p.349-350). The actors involved in the policy process to ratify CEDAW in 2009 and 2011 attempts uses Evan’s ‘hard’ elements of policy transfer. The international pressure and recommendation by the Commonwealth Parliamentary Association and UNDP for Women as well as conditions imposed on AID funded programs could be seen to impose their conditionalities to reform. This was reaffirmed by a pro-democratic MP, ‘Akilisi Pohiva stating, "Here in Tonga our land tenure system is a really delicate issue. If parliament approves or supports the CEDAW case that would mean our land tenure system would be very much affected. And that is why all the nobles and government and cabinet ministers voted against that." He further mentions that there may be reform once there are more women in Parliament to review the decision (21 September 2009, Radio NZ).

The 2015 attempt to ratify the Convention could be seen to use Stone’s ‘soft’ form of policy transfer when the TWLC evolved as an attempt to debunk unpopular beliefs around the ratification of CEDAW. Despite the stiff opposition by religious and conservative groups at the very last minute, the policy process had transpired within horizontal and vertical actor networks, which extended governance scales within the state and across borders (Betsill & Bulkely 2004, p.475). The unsuccessful attempt at ratifying CEDAW in 2015 can be argued that the degree of policy transfer was not so much coercive but negotiated in the sense that the transfer of policy ideas and norms through epistemic communities failed to be accepted by the wider community. The TWLC worked closely with AUSAID’s Pacific Leadership Programme (PLP) in the lessons learnt from the unsuccessful ratification of CEDAW. Some of the significant challenges that was identified in the PLP Discussion Paper was the legacy relationships the TWLC had with the former government and the critical acceptance the public had of the church leaders’ views. The 2009 and 2011 attempts to ratify the convention failed due to majority vote against the ratification within the Legislative Assembly and the 2015 attempt failed due to public demonstrations and the question of legality. The Discussion Paper aims to change the perception of the convention and the norms around gendered roles in Tonga. The analysis on the challenges of ratifying CEDAW identified the importance of a

coalition being successful in a development context and the prevailing discourses on thinking and working politically (Discussion Paper 2016). This reaffirms Evan's perspective that the process-centred approach to policy learning emphasising on agency rather than structure and that 'the study of policy transfer analysis should be restricted to action-oriented intentional learning: that which takes place consciously and results in policy action' (2004, p. 244). This approach could resolve some of the weaknesses of the political and organisational perspectives of the transfer of ideas and knowledge. TWLC and the epistemic communities can use the events, which led to the unsuccessful ratification of CEDAW to resolving any weaknesses of the political and organisational perspectives of the dynamics of learning. Beland suggests that framing policy alternatives are dialogical in nature and that there is a preventative element that shields it from criticism (2005). One of the recommendations under the PLP discussion paper mentions is for both TWLC and development partners to improve their ability to adapt to local political context and 'think politically' using current discourses on thinking and working politically (TWP) (2016). The aim for the TWLC and PLP is to use the discourses on TWP to "overcome the scepticism of others and persuade them of the importance of reform. In other words, they must create a discourse that changes the collective understanding of the welfare state, because doing so 'shapes the path' necessary to enact reform" (Beland 2005, p.11).

Conclusion

The scholarship on women's rights and policy transfer in an increasingly globalised world presents many challenges to address the gender inequality gap. Studies have shown that the policy transfer has shifted from a hierarchical, multi-level form of transfer within a state to a more multi-sphered, transnational network form of transfer involving many actors both locally and internationally. Religion and culture appears to stunt the efforts to advance women's rights in Tonga while other issues evoked less protest and it appears that even within the female community there has been hesitancy to change the status quo. The paper has outlined that for the state to commit to the SDGs particularly goals 5 and 10 on gender equality, significant reforms are required. The actors involved in the policy process have been identified to include, elected Parliamentarians; civil servants; pressure groups; policy entrepreneurs and supra-national institutions. It also discusses the importance of Beland's approach of framing alternative policies so that it can garner favour from the religious and cultural groups who have been recognised as very influential in policymaking. The paper mentions the importance of epistemic

communities and their authority as producers of evidence to have an influence in matters that the state does not have the capacity to address. However, the effectiveness of the epistemic community and transnational networks are shaped by the national and political context, including policy legacies (historical institutionalism), the state's capacity, international pressures and the degree of democracy. The King's decision to veto government's intention to ratify challenges the independence of a young democracy. The issues and challenges combined, provides a framework that guides the analysis of policy process and transfer over gender equality reforms. It shows the dynamics of power struggles in detail, and gives a better understanding of the factors shaping gender inequality in Tonga.

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