

# CONTENTS

<i>Acknowledgments</i> . . . . .	vii
<i>List of Abbreviations</i> . . . . .	xix
<i>List of Figures and Tables</i> . . . . .	xxiii

## Chapter I

Introduction. . . . .	1
1. Brief overview of the process of state reporting and the legal status of COs . . . . .	2
1.1. The process of state reporting. . . . .	2
1.2. Objectives of reporting . . . . .	5
1.3. The legal status of COs . . . . .	7
2. Overview of the deficiencies of the treaty body system . . . . .	9
2.1. The treaty body reform discussion . . . . .	10
2.2. The weaknesses in the treaty body system, the dialogue and the COs. . . . .	11
2.3. Recent improvements . . . . .	19
3. Overview of contemporary research on the effectiveness of COs . . . . .	20
4. Main research questions and definitions. . . . .	24
4.1. Broader influence of the process . . . . .	25
4.2. Impact . . . . .	25
4.3. Effectiveness . . . . .	26
5. Research objectives and contributions . . . . .	27
6. Valorisation: societal relevance of this research. . . . .	28
7. Structure of the book. . . . .	29

## Part A

<b>Theoretical and Methodological Framework.</b> . . . . .	31
--	----

## Chapter II

Theoretical Framework. . . . .	33
1. Logic of consequences: instrumentalist or rationalist models . . . . .	35
1.1. External or international incentives models . . . . .	35
1.2. Domestic politics, institutions and mobilisation. . . . .	37
2. Logic of appropriateness: ideational norm-centred approaches. . . . .	41
2.1 The managerial model. . . . .	42
2.2. Legitimacy and persuasion . . . . .	43
3. Combining the two logics: transnational human rights advocacy . . . . .	44
4. Theoretical implications for this research. . . . .	47

Chapter III	
Methodological Framework . . . . .	49
1. Country selection . . . . .	49
1.1. Western liberal democracies as most likely cases. . . . .	49
1.2. The Netherlands as the main case. . . . .	52
1.3. Two additional most similar countries: New Zealand and Finland . . .	53
2. Methodology . . . . .	56
2.1. The broader influence . . . . .	57
2.2. Domestic impact and domestic mobilisation . . . . .	58
2.3. The effectiveness of COs. . . . .	60
2.4. Limitations to the measuring of effectiveness . . . . .	63
2.5. Explaining the (in)effectiveness of COs . . . . .	65
2.6. Interviews . . . . .	66

**Part B**

<b>The Netherlands . . . . .</b>	<b>69</b>
----------------------------------	-----------

Chapter IV

The Role and Place of Human Rights and State Reporting in the Netherlands. . .	71
1. Background to the Dutch legal and political system . . . . .	71
2. The role of human rights in the Dutch legal order . . . . .	73
2.1. Government . . . . .	74
2.2. Parliament . . . . .	76
2.3. National courts and legal practice. . . . .	77
2.4. The legal (human rights) culture. . . . .	79
2.5. Concluding remarks and recent developments . . . . .	80
3. The broader influence of the reporting process . . . . .	82
3.1. The organisation of the process of state reporting . . . . .	83
3.2. The attitude of government officials towards the process of state reporting . . . . .	85
3.2.1. The value of reporting . . . . .	85
3.2.2. The importance given to reporting in practice. . . . .	87
4. The views of government officials about the quality of treaty bodies and the COs. . . . .	90
4.1. The irrelevance of the dialogue. . . . .	91
4.2. The superficiality of the dialogue . . . . .	93
4.3. The absence of a <i>constructive</i> dialogue . . . . .	95
4.4. The limited quality and specificity of COs . . . . .	96
5. Conclusion. . . . .	98

Chapter V	
ICERD .....	99
1. Domestic impact and domestic mobilisation .....	99
1.1. Governmental attention .....	99
1.2. Parliamentary scrutiny .....	101
1.3. Courts and legal practice .....	102
1.4. NGOs .....	103
1.5. Media coverage .....	105
1.6. Conclusion .....	105
2. Assessing the effectiveness of COs .....	106
2.1. COs that have been rejected .....	108
2.2. Standing policy measures in line with the COs .....	110
2.3. (Partly) effective COs .....	110
3. Treaty specific reasons for the (in)effectiveness of COs .....	114
3.1. Factors related to the domestic context .....	114
3.2. The (perceived) quality of the CERD .....	117
4. Conclusion .....	121
Chapter VI	
ICCPR .....	123
1. Domestic impact and domestic mobilisation .....	124
1.1. Governmental attention .....	125
1.2. Parliamentary scrutiny .....	126
1.3. Courts and legal practice .....	127
1.4. NGOs .....	128
1.5. Media coverage .....	130
1.6. Conclusion .....	130
2. Assessing the effectiveness of COs .....	131
2.1. COs that have been rejected .....	131
2.2. Standing policy and legislative measures in line with the COs .....	133
2.3. (Partly) effective COs .....	134
3. Treaty specific reasons for the (in)effectiveness of COs .....	136
3.1. Factors related to the domestic context .....	136
3.2. The (perceived) quality of the HRC .....	139
4. Conclusion .....	141
Chapter VII	
ICESCR .....	143
1. Domestic impact and domestic mobilisation .....	143
1.1. Governmental attention .....	143
1.2. Parliamentary scrutiny .....	144

1.3.	Courts and legal practice. . . . .	146
1.4.	NGOs. . . . .	147
1.5.	Media coverage . . . . .	148
1.6.	Conclusion. . . . .	149
2.	Assessing the effectiveness of COs. . . . .	150
2.1.	COs that have been rejected . . . . .	151
2.2.	Standing policy and legislative measures in line with the COs . . . . .	153
3.	Treaty specific reasons for the (in)effectiveness of COs. . . . .	154
3.1.	Factors related to the domestic context . . . . .	154
3.2.	The (perceived) quality of the CESCRC . . . . .	158
4.	Conclusion. . . . .	163

## Chapter VIII

	CEDAW. . . . .	165
1.	Domestic impact and domestic mobilisation . . . . .	165
1.1.	Governmental attention. . . . .	167
1.2.	Parliamentary scrutiny . . . . .	168
1.3.	Courts and legal practice. . . . .	171
1.4.	NGOs. . . . .	172
1.5.	Media coverage . . . . .	175
1.6.	Conclusion. . . . .	176
2.	Assessing the effectiveness of COs. . . . .	177
2.1.	COs that have been rejected . . . . .	178
2.2.	Standing policy and legislative measures in line with the COs . . . . .	181
2.3.	(Partly) effective COs . . . . .	183
2.3.1.	The SGP case . . . . .	184
2.3.2.	Law on Names . . . . .	185
2.3.3.	Reinstatement of maternity benefits for self-employed women. . . . .	187
2.3.4.	More attention to the gender aspects of domestic violence . . . . .	188
2.3.5.	Evaluation gender dimension asylum policy . . . . .	190
2.3.6.	Uninterrupted long school day. . . . .	191
2.3.7.	Training and education for prostitutes leaving their profession . . . . .	191
3.	Treaty specific reasons for the (in)effectiveness of COs. . . . .	192
3.1.	Factors related to the domestic context . . . . .	192
3.2.	The (perceived) quality of the CEDAW Committee. . . . .	195
4.	Conclusion. . . . .	198

## Chapter IX

CAT.....	199
1. Domestic impact and domestic mobilisation .....	200
1.1. Government informing parliament .....	200
1.2. Parliamentary scrutiny .....	200
1.3. Courts and legal practice.....	201
1.4. NGOs.....	201
1.5. Media coverage .....	203
1.6. Conclusion.....	203
2. Assessing the effectiveness of COs.....	203
2.1. Standing policy and legislative measures in line with the COs .....	204
2.2. (Partly) effective COs .....	206
3. Treaty specific reasons for the (in)effectiveness of COs.....	207
3.1. Factors related to the domestic context.....	207
3.2. The (perceived) quality of the CAT Committee .....	211
4. Conclusion.....	212

## Chapter X

CRC.....	213
1. Domestic impact and domestic mobilisation .....	213
1.1. Government attention .....	213
1.2. Parliamentary scrutiny .....	217
1.3. Courts and legal practice.....	221
1.4. NGOs.....	223
1.5. Media coverage .....	226
1.6. The broader influence of the reporting process under the CRC .....	227
2. Assessing the effectiveness of COs.....	230
2.1. COs that have been rejected .....	231
2.2. Standing policy and legislative measures in line with the COs .....	232
2.3. (Partly) effective COs .....	233
2.3.1. The establishment of a Children's Ombudsman .....	234
2.3.2. The separate housing of juvenile offenders .....	235
2.3.3. Increased dissemination and raising awareness about the CRC .....	236
2.3.4. Improvements in the asylum procedure for children .....	237
2.3.5. The prohibition of corporal punishment .....	240
2.3.6. Improved interaction between NGOs and the government ..	241
2.3.7. Initiatives in the context of human rights education .....	242
2.3.8. The abolition of life imprisonment for minors.....	243
2.3.9. Renewed consultations about foster care .....	244
2.3.10. The promotion of breastfeeding .....	245

3.	Treaty specific reasons for the (in)effectiveness of COs. . . . .	245
3.1.	Factors related to state level . . . . .	245
3.2.	The (perceived) quality of the CRC Committee . . . . .	249
4.	Conclusion. . . . .	252

## Chapter XI

	Comparison of the findings for the Netherlands. . . . .	253
1.	The broader influence of the reporting process . . . . .	253
1.1.	Reporting as an opportunity for reflection? . . . . .	253
1.2.	Increased understanding or awareness? . . . . .	255
2.	The domestic impact of the reporting process and the COs. . . . .	255
2.1.	The impact of COs. . . . .	255
2.2.	Recent developments which might strengthen the impact of the COs .	259
3.	Effectiveness of the COs. . . . .	261
4.	Factors obstructing the effectiveness of COs . . . . .	265
5.	Factors contributing to the effectiveness of COs . . . . .	267

## Part C

	<b>New Zealand and Finland . . . . .</b>	<b>271</b>
--	--	------------

## Chapter XII

	New Zealand. . . . .	273
1.	Background: the New Zealand legal and political system . . . . .	274
2.	The broader influence of the reporting process . . . . .	276
2.1.	The organisation of the process of state reporting . . . . .	276
2.2.	The attitude of government officials towards the process of state reporting . . . . .	280
2.3.	Increased understanding or awareness? . . . . .	283
3.	Domestic impact and domestic mobilisation . . . . .	284
3.1.	Governmental attention. . . . .	284
3.2.	Parliamentary scrutiny . . . . .	287
3.3.	Courts and legal practice. . . . .	290
3.4.	Human Rights Commission and Office of the Children's Commissioner . . . . .	291
3.5.	NGOs. . . . .	293
3.6.	Media coverage . . . . .	295
4.	Assessing the effectiveness of COs. . . . .	296
4.1.	Prohibition of corporal punishment through the repeal of section 59. .	299
4.2.	Avoiding age mixing in prison . . . . .	301
4.3.	The repeal of the Foreshore and Seabed Act 2004 . . . . .	302
4.4.	Education for unlawfully present children . . . . .	303
4.5.	Withdrawal of the reservation to CEDAW: women in armed forces .	304

4.6.	The independence of the Police Conduct Authority . . . . .	306
4.7.	The strengthening of the Children's Commissioner . . . . .	306
4.8.	The incorporation of the prohibition of non-refoulement . . . . .	307
4.9.	Conclusion . . . . .	308
5.	Explaining the (in)effectiveness of COs . . . . .	310
5.1.	Factors facilitating the effectiveness of COs . . . . .	310
5.2.	Factors obstructing the effectiveness of COs . . . . .	311
6.	Conclusion . . . . .	316

### Chapter XIII

Finland . . . . .	317	
1.	Background: the Finnish legal and political system . . . . .	317
2.	The broader influence of the reporting process . . . . .	321
2.1.	The organisation of the process of state reporting . . . . .	321
2.2.	Attitude of government officials towards the process of state reporting . . . . .	325
2.3.	Increased understanding or awareness? . . . . .	326
3.	Domestic impact and domestic mobilisation . . . . .	327
3.1.	Governmental attention . . . . .	328
3.2.	Parliamentary scrutiny . . . . .	330
3.3.	Courts and legal practice . . . . .	332
3.4.	Ombudsmen and Human Rights Centre . . . . .	334
3.5.	NGOs . . . . .	336
3.6.	Media coverage . . . . .	340
4.	Assessing the effectiveness of COs . . . . .	341
4.1.	The establishment of an assistant Parliamentary Ombudsman and an Ombudsman for Children . . . . .	345
4.2.	Sami land rights and the ratification of ILO Convention 169 . . . . .	346
4.3.	The criminalisation of torture . . . . .	348
4.4.	Violence against women in the 1990s . . . . .	350
4.5.	The establishment of the Ombudsman for Minorities . . . . .	351
4.6.	Consolidation of equality legislation . . . . .	351
4.7.	The reduction of the length of the alternative service for conscientious objectors . . . . .	352
4.8.	The CRC in school curricula . . . . .	354
4.9.	Conclusion . . . . .	354
5.	Explaining the (in)effectiveness of COs . . . . .	357
5.1.	Factors facilitating the effectiveness of COs . . . . .	357
5.2.	Factors obstructing the effectiveness of COs . . . . .	361
6.	Conclusion . . . . .	362

## **Part D**

<b>Conclusion</b> .....	365
-------------------------	-----

### Chapter XIV

Conclusion: Main Findings and Reflections. ....	367
---	-----

1. The broader influence of the reporting process .....	368
2. The domestic impact of the reporting process and the COs.....	369
3. Effectiveness of the COs.....	372
4. Factors contributing to the (in)effectiveness of COs .....	376
4.1. Factors contributing to ineffectiveness of COs.....	376
4.2. The subject matter and specificity of COs .....	378
4.3. Domestic factors contributing to the effectiveness of COs.....	379
4.3.1. Domestic mobilisation .....	381
4.3.2. Structure: the organisation of the reporting process and follow-up to COs.....	383
4.3.3. Commitment: views and outlook of decision makers .....	385
4.3.4. Cultural, political and legal factors .....	387
5. Reflections and discussion .....	388
6. Policy recommendations.....	390
6.1. Suggestions for the treaty bodies: less is more .....	391
6.2. Suggestions for domestic stakeholders: COs as practical props .....	394

<i>Nederlandse samenvatting [Summary in Dutch]</i> .....	395
--	-----

<i>Appendix 1. List of persons interviewed by the author</i> .....	405
--	-----

<i>Appendix 2. Databases and search terms used.</i> .....	417
---	-----

<i>Appendix 3. Interview Checklist.</i> .....	427
---	-----

<i>Bibliography</i> .....	429
---------------------------	-----

<i>Index</i> .....	451
--------------------	-----