# Preface

The original concept of this book, often altered beyond recognition and sometimes might be forgotten, was to analyse the effectiveness of the UN Human Rights Committee (*referred to as the Committee or HRCtte*) in promoting civil and political rights and freedoms in Central Asia. As someone experienced in legal practice, management of human rights projects, research, and training for international human rights initiatives, I believe that the UN Human Rights Committee could play a more supportive, and thus, more impactful role in protecting individuals, their legal representatives, and even fostering stronger and more sustainable reforms of the governments.

With this idea in mind, I ventured to explore the potential impact in Central Asia mostly through the Committee's Individual Communication procedure. However, my on-the-ground research in Central Asia during 2013 shifted this initial perspective to another procedure of the Committee – the State reporting. This procedure turner to be often underestimated, while being a multifaceted and important mechanism, instrumental in driving various human rights changes across the region ever since its Soviet Union time. The surprising yet limited impact of the HRCtte through its State reporting prompted me to focus on this procedure – the only procedure binding upon all State parties *ipso facto* ratification of the International Covenant on Civil and Political Rights (referred to as ICCPR), aiming at regular monitoring of implementation of the ICCPR, and keeping all State parties in regular interaction with the Committee on the matters of human rights.

While traditionally, studies on the Committee’s impact focus on both its Views under the individual communication procedure and Concluding Observations under the State reporting procedure, this book has placed greater emphasis on *how exactly* the Committee has exerted its influence only through the State reporting procedure. Methodologically, for the thorough analysis of the impact of the Committee through each of the two procedures, there should be different approaches and theories apply. Meaning, to fully understand the way of influence through the state reporting procedure, it’s essential to consider the entire process of *repeated interactions* between the Committee and States in the region since 1978, when the region was a part of the former USSR. This procedure aligns more closely with the existing interdisciplinary (international law and international relations) theories regarding the way in which international institutions influence states.

In contrast, the individual communication procedure, which was introduced gradually only after the dissolution of the USSR, when the CA states have become independent, follows a more legal framework. Its impact that may be reflected in the implementation of Views, legislative changes, or shifts in practice, demands a more legalistic research approach, which has been used by other scholars in respect to other countries. The gathered materials from the region show that the influence of this procedure in Central Asia has been even more limited compared to state reporting. At the same time, the impact is not less important; it would need to be examined in a different way, taking into account that this procedure came to the region comparatively recently. The methodological divergence as well as the timeframe of the periods under the examination justifies addressing these procedures separately, which I plan to show in a subsequent book.

My hope is that as this book is the first one with the focus on the Central Asian region discussing the impact of the Committee’s procedures there, will trigger more research and studies on what challenges the UN Committees have encountered and what opportunities there may be to improve both national and international human rights protection mechanisms. The lessons learnt from the Committee’s experience in Central Asia and the methodology used for this research may be useful for other parts of the world and other international human rights mechanisms.

*The role of the monitoring function is not to show the government in a bad light. On the contrary, monitoring is an indispensable first step towards identifying and subsequently remedying any human rights problems that might exist.*[[1]](#footnote-1)

# Chapter I: Introduction

Human rights, being universal, indivisible and interdependent, feature prominently in the Preamble of the Charter of the United Nations: *“… to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small…”*. The UN Charter obliges all Member States to promote *“universal respect for, and observance of, human rights”* and to take *“joint and separate action”* to that end. This resulted in developing the UN as the only international institution with the worldwide jurisdiction and universal human rights legislation – the UN human rights treaties – and with the system to monitor implementation of the human rights norms and standards expressed by or derived from the treaties, created by experts and agreed upon by the UN Member States.

Since 1945 – the year of establishment of the United Nations – the system has experienced a huge transformation. Yet, the system is far from the ideal one for the States, for civil society, for business structures. The system is rather heavy and unclear to be useful on the one hand, and yet quite an authoritative and important to be ignored. The United Nations system includes numerous bodies primarily focused on human rights, such as the General Assembly, its Third Committee, the Economic and Social Council, and the International Court of Justice. Additionally, 19 UN agencies and partners are engaged in the promotion and protection of human rights, working in coordination with key human rights mechanisms.[[2]](#footnote-2) The Human Rights Council[[3]](#footnote-3) is equipped by the [Universal Periodic Review](https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx) (UPR) procedure, [Special Procedures](https://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx) and [Complaint Procedure](https://www.ohchr.org/EN/HRBodies/HRC/ComplaintProcedure/Pages/HRCComplaintProcedureIndex.aspx).[[4]](#footnote-4) Last, but not least, there are the treaty bodies – ten UN Committees,[[5]](#footnote-5) consisting of independent experts mandated to monitor national implementation of the nine core international human rights treaties and one optional protocol, and the State Parties' compliance with their treaty obligations.[[6]](#footnote-6)

Such a complex human rights protection system requires ongoing revision of it to make it useful for *duty-bearers*, as well as for *right-holders*. Despite all the efforts to develop, enhance, strengthen each part of such a complicating system,[[7]](#footnote-7) human rights violations are yet widespread, and one may hardly find a single state, where human rights provided and protected comparatively well. No one, at least from among those who were interviewed for the purpose of writing my doctoral research (2011-2016), including field research (in 2013, Central Asia), and after that while I was serving the UN in Uzbekistan from 2017 to 2023, were satisfied with the effectiveness of the UN as the universal system for human rights protection, promotion and enforcing them at domestic and international levels.

In time of “COVID 19 pandemic hysteria”, the effectiveness of the UN as an international human rights institution has been challenged: many states disregarded human rights obligations justifying this by security and public health reasons. On the global level, the UN repeatedly reminded the States about human rights obligations. The UN Secretary-General António Guterres said: “Human rights are key in shaping the pandemic response. […] Responses that are shaped by and respect human rights result in better outcomes in beating the pandemic, ensuring healthcare for everyone and preserving human dignity”.[[8]](#footnote-8) UN High Commissioner for Human Rights Michelle Bachelet called on Member States “to ensure human rights are not violated under the guise of exceptional or emergency measures.”[[9]](#footnote-9) There were many other statements and concerns by the High Commissioner and Special Procedures.[[10]](#footnote-10)

On the national level, UN country teams in Central Asia assisted the local governments in responding COVID-19 from the health and security point of view and were not always responsive to human rights issues.[[11]](#footnote-11) The measures the Governments of all countries in the regions introduced to prevent the spread of COVID-19 have had many negative implications on human rights mostly as a result of lack of due process.[[12]](#footnote-12)

In light of these challenges, the effective implementation and monitoring of human rights obligations become even more crucial. The United Nations, with its extensive system of human rights bodies, plays a crucial role in ensuring that states adhere to their commitments under international treaties. Among these mechanisms, the treaty bodies – the ten UN Committees – composed of independent experts, are central to monitoring compliance and addressing gaps in national implementation.[[13]](#footnote-13)

The book is written in the context of this ongoing effort to strengthen the treaty body system,[[14]](#footnote-14) with particular focus on the UN Human Rights Committee (hereinafter the Committee or HRCtte). Established under the International Covenant on Civil and Political Rights (hereinafter the ICCPR or the Covenant),[[15]](#footnote-15) the Committee's mandate is to supervise the application of this treaty, ensuring that states meet their human rights obligations effectively.[[16]](#footnote-16)

The Committee exercises its monitoring and supervisory functions through three procedures, two of which are provided for in the ICCPR – the State reporting procedure[[17]](#footnote-17) and the inter-state communication procedure[[18]](#footnote-18) – and one of which is set forth in the Optional Protocol to the ICCPR – the individual communication procedure.[[19]](#footnote-19)

The State reporting procedure – the focus of this book – is the only mandatory procedure for all states parties to the Covenant. The procedure was meant to be ‘the essential catalyst in the process of implementation provided under the Covenant’,[[20]](#footnote-20) and ‘the most widespread and established implementation technique for the international implementation of human rights’.[[21]](#footnote-21) It is the only procedure of the Committee that has applied to the Central Asian (CA) states since 1976, when Central Asia was a part of the Union of Soviet Social Republics (USSR) (since 1920s–30s[[22]](#footnote-22)) – a state that ratified the ICCPR in 1973.[[23]](#footnote-23) Thus the analysis of this procedure would give us the most accurate understanding of the way of influence if at all, of such international institution as the HRCttee on one regional in different political realm.

The states under consideration are Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan – the five Central Asian (CA) countries that share historical experiences, culture and languages.[[24]](#footnote-24)

Chapter II serves as a theoretical basis for further analysis of the impact of the HRCtte on Central Asia. This chapter introduces, first, some relevant basic theories on the influence of international institutions on states. Second, it discusses the powers and limitations that the Committee has had while functioning under Article 40 of the ICCPR. Third, it discusses the dependence of the Committee’s *modus operandi* on its powers, which are expressed [[25]](#footnote-25) – that are expressly invested to this institution by the states that established it – and *implied* – those which are not mentioned explicitly in the Covenant, but which are conferred upon the Covenant by necessary implication as being essential to the performance of the Committee’s duties.[[26]](#footnote-26) The limits of those powers are ‘a function of the common interests whose promotion those states entrust to [it]’.[[27]](#footnote-27). Finally, considering the theories discussed, and the different modus operandi of the Committee, this chapter suggests, in short, what impact the Committee could have had at the domestic level during two periods – from 1977 to 1990 and from 1991 to the present time.

Chapter III provides an analysis of the actions of the Committee in connection with the state reporting by the USSR, and the results of these actions for Soviet Central Asia. This chapter is essential to understand some preconditions for the impact of the Committee, as this chapter starts to explore the *formal* and *informal* domestic factors that led to the first influence, although limited one, of the Committee on Soviet Central Asia before certain internal changes were made, and a growing influence during and after those internal changes. The chapter also demonstrates that as a result of underdevelopment of the procedure, the limited powers of the Committee, and the lack of legal interpretation of the Covenant, the HRCtee’s influence on the Soviet state and its Republics depended hugely on the domestic political ideology (a part of *informal* domestic factors). At the same time, the chapter suggests that even with such limited capacity the Committee influenced Soviet Central Asia, and, perhaps could have facilitated more results had the USSR not dissolved.

Chapter IV is dedicated to the work of the Committee in respect to the newly independent CA states. In particular, the chapter reveals the continuation of impact of the Committee on the region as a result of such legal factors as national law, regional agreements and the development of international law, including the Committee’s approach to the continuity of international human rights obligations for the newly independent states. This chapter pays particular attention to the Committee’s first direct actions towards these CA states, which was to argue that their reporting obligations under the ICCPR continued after the USSR’s dissolution. These actions, I argue, were one of the factors that pushed the CA states to join the Covenant and the Protocol to it.

 Chapter V demonstrates that the Committee’s influence on the contemporary CA states has been persistently growing. It began with states’ compliance with their reporting obligations; now the Committee has both a direct and indirect influence on changes in human rights in the region. This demonstrates that the modern reporting procedure, which the Committee has greatly enhanced since 1991, has enhanced its influence. Although the Committee’s influence became possible only after the states started to comply with their reporting obligations, the continuation of this influence has become less dependent on the will of the government because non-state actors use the Committee’s work in their dialogue with the government. The chapter further suggests that, at the moment, the compliance of the states with their reporting obligations under the ICCPR is the most important result of the Committee’s actions, because it is one of the main prerequisites for human rights changes and further influence of the Committee at the domestic level.

On the basis of the findings provided in the previous chapters, and in light of compliance theories in international law and international relations theories, Chapter VI concludes that the Committee, as an international body of experts, has influenced the CA states *directly* through different forms of frequent interactions, based on normative discourse, and through *indirect* stimulation of process of learning, and communication between relevant domestic actors. This chapter also summarised the lessons learned and suggestions for the current and future actions of a human rights international institution to make more positive influence on states to encourage them, facilitate in their implementation of human rights obligations at domestic level.

For reasons of confidentiality and security, most of the interviewees’ names, their place of work and position, as well as the exact dates and locations of the interviews have been replaced by codes (**SO –** state official; **NG –** non-government organisation; **IO –**international organisation; **DL –** defence lawyer; **LE –** legal expert**;** **NL –** non-lawyer).

# Chapter II: The impact of the UN Human Rights Committee under the State reporting procedure: Theory

The State reporting procedure, although not discussed in the earliest years of the drafting of the Covenant,[[28]](#footnote-28) in 1966, turned out to be ‘the major control mechanism envisaged for the Covenant’, mainly because the other two procedures became optional.[[29]](#footnote-29) Based on the existing theories on international institutions’ influencing states, the present chapter theorises the impact of the UN Human Rights Committee’s operation under the State reporting procedure. For this purpose, Section 2 presents several of the existing (interdisciplinary) theories regarding the way in which international institutions influence states, and specifies the Committee’s rights and duties, and powers and limitations under the State reporting procedure. Sections 3 and 4 analyse the Committee’s *modus operandi* in two periods – from 1977 to 1990 (the Soviet period of Central Asia) and from 1991 to 2015 (the CA states’ independence). The legal framework includes relevant provisions of the ICCPR, the *travaux préparatoires* of the Covenant, and the general principles of the international law concerning treaties mostly reflected in the Vienna Convention on the Law of Treaties between states (VCLT 1969).[[30]](#footnote-30)

* 1. The treaty compliance underlying theories

The interdisciplinary literature that reflects on the matter of influence on the state is based on two classical modes of influencing a state’s compliance with its international obligations: coercion and persuasion. [[31]](#footnote-31) One group of scholars adheres to the coercive mode of treaty compliance theory[[32]](#footnote-32) (e.g., rationalists*,* including realists, neo-realists and institutionalists),[[33]](#footnote-33) and the other promotes persuasion as ‘a central to treaty compliance,’ and a ‘fundamental instrument’ and ‘principal engine’ for international institutions,[[34]](#footnote-34) (e.g., constructivists[[35]](#footnote-35)and managerialists[[36]](#footnote-36)). Both groups are interdisciplinary – they embrace social scientists, lawyers and political scientists. Both groups suggest that international institutions can and do influence the states. However, they do not agree on *how* the institutions influence.[[37]](#footnote-37)

The interdisciplinary group of scholars that adheres to the coercive mode of treaty compliance theory believes that ‘states and institutions influence the behaviour of other states by escalating the benefits of conformity or the costs of nonconformity through material rewards and punishment’,[[38]](#footnote-38) or the possibility of military intervention, for example based on the UN Charter,[[39]](#footnote-39) for humanitarian purposes.[[40]](#footnote-40) The institutionalists also discuss the use of indirect and soft sanctions[[41]](#footnote-41) such as ‘reputational costs’, ‘naming and shaming’, and ‘using carrots and stick’.[[42]](#footnote-42) They suggest that international human rights institutions, while using soft or indirect sanctions, can facilitate international cooperation and have an *indirect* domestic effect. In other words, for this group of scholars ‘the impact as an action’ or ‘a cause’ that can lead to an influence on the state by an international institution is a form of ‘sanction’ or pressure.

The other group of international law and international relations scholars that promotes the persuasive mode of state influence argues that international law and institutions influence states through processes of social “learning” and other forms of information conveyance.[[43]](#footnote-43) The constructivists, who base their argument on the normative theory of international law compliance,[[44]](#footnote-44) suggest that ‘arguing and persuasion are more likely to change the interests of social agents’[[45]](#footnote-45) and lead to the internalisation and socialisation[[46]](#footnote-46) of international legal norms at the domestic level.

The most eminent proponents of the *managerial* school of thought – Professors Abram Chayes and Antonia Handler Chayes – argue that ‘the fundamental instrument for maintaining compliance with treaties at an acceptable level [is] an iterative process of normative discourse among the parties, the treaty organization, and the wider public’.[[47]](#footnote-47) What is ‘acceptable’ in terms of compliance, they explain, will ‘reflect the perspectives and interests of participants in the ongoing political process’, and ‘will shift according to the type of treaty, the context, the exact behavior involved, and over time’.[[48]](#footnote-48)

There are several rationalists[[49]](#footnote-49) and institutionalists[[50]](#footnote-50) who share an understanding similar to that of managerialists regarding international institutions’ influence on states in terms of treaty compliance. In particular, they suggest that

frequent repeated interactions can ‘eventually’ lead to compliance by states with their international obligations; eventually, however, ‘may be a very long time’.[[51]](#footnote-51) However, they claim, states engage in making treaties or agree to comply with international legal norms *only* in order to promote their national interests, mostly as a result of soft coercion. For example, apart from those soft sanctions that were mentioned above, rationalists and institutionalists suggest also the reduction of verification costs and increasing repeated interactions between rational, self-interested states and an international institution.[[52]](#footnote-52)

According to the rationalists,

international institutions that were established under the treaties, ‘generate information, facilitate communication and negotiation, structure interactions, and provide the institutional mechanisms needed to enforce selective incentives for national action’.[[53]](#footnote-53)

For example, such institutions can empower human rights victims and activists,[[54]](#footnote-54) by providing them with ‘a backdrop for further engagement and argument about facts and accountability’.[[55]](#footnote-55)

Each of these groups of scholars emphasises different means – coercive, persuasive or somewhat mixed actions – that are necessary to achieve an influence on the state. They believe that influence and effect of an international institution and the actual actions of the international institution are mutually dependent. Applying this to the analysis of the impact of the HRCtte, one can see that the Committee’s actions define and limit the possibility and the area(s) of (the possible) influence of the Committee on changes in implementation of and/or compliance with the ICCPR. In other words, the impact of the Committee depends on powers and limitations of the Committee which are expressed in or implied by the Covenant. In order to explore whether and/or what actions of the Committee may and do *cause* the changes (if any) in Central Asia, and to suggest causal mechanisms of this influence, it is necessary to determine what the Committee *can* do under the Covenant.

* 1. The underlying definition of the ‘impact’ of the HRCtte

There are several studies on the functioning of the Committee[[56]](#footnote-56) but only a few of them consider the impact of the Committee’s procedures at the domestic level,[[57]](#footnote-57) and none of them concerns Central Asia. Those that concern the impact are very fragmentary in the sense that the authors typically focus on the Committee’s final outcomes[[58]](#footnote-58) (concluding observations,[[59]](#footnote-59) general comments,[[60]](#footnote-60) and views[[61]](#footnote-61)), but usually not with the Committee’s work that precedes it (e.g., developing reporting guidelines and interacting with states and non-state actors).[[62]](#footnote-62) Nor do they suggest causal mechanisms explaining the influence of this treaty body. The scholars are usually looking for *direct* implementation and the use of the final outcomes by a state,[[63]](#footnote-63) but they do not consider any *indirect* effect of the Committee, for instance, on the state actors through actors other than those of the state (e.g., individuals and NGOs/CSO[[64]](#footnote-64)), or on the local authorities of a federal state through the central government of that state.

While not considering these aspects of the impact assessment and other parts of the Committee’s monitoring and supervision mechanisms, the existing studies tend to claim that all of the mechanisms of the Committee are too weak to influence states, and that they have had a limited observable effect on them.[[65]](#footnote-65) In order to fill these gaps and to widen the understanding of the impact of the UN HRCtte at the domestic level, this study combines original empirical research conducted in Central Asia with the insights from a broad body of literature in law, international relations and politics on the influence of international institutions on states.

In this book, **the impact or influence of the Committee refers to any changes of those parts of domestic regime – implicit or explicit principles, norms, rules and decision-making procedures – that concern implementation of and/or compliance with the ICCPR.[[66]](#footnote-66)** *Implementation* of the Covenant means incorporating the norms of the Covenant in domestic law through legislation, judicial decision, executive decree, or other process; *compliance* includes implementation, but is more concerned with actual state adherence to the provisions of the ICCPR and to the implementing measures that it has instituted.[[67]](#footnote-67) In the present study, changes are expected in the (1) *principles,* which ‘are beliefs of fact, causation, and rectitude’; and/or (2) *norms* – ‘standards of behaviour defined in terms of rights and obligations’; and/or (3) *rules* – ‘specific prescriptions or proscriptions for action’; and/or (4) decision-making procedures – ‘prevailing practices for making and implementing collective choice’; where ‘changes in principles and norms are changes in the regime itself’.[[68]](#footnote-68)

Thus, through the analysis of the work of the HRCttee, as one of the ten UN treaty bodies, this book reveals the impact that this UN human rights institution can and has made and tends to explain how and why this impact has changed over the time in Central Asia. Mainly, it strives to identify what particular influence the Committee can have and has had on the states’ agents (e.g., government, other state officials) and/or other domestic actors (e.g., non-governmental organisations, lawyers, human rights activists), to make them capable to change human rights law and practice. It also enquires into what actions led to such an influence; and what other conditions contributed to or prevented such an influence. All this brings us to the lessons should be learned in order to better understand, first, ***why the progress is so limited, and not often seen even when there is one***, and second, ***what may be done to enhance the system to achieve better progress*** even in such emergency as COVID-19 pandemic.

* 1. The research methodology applied

The main research method of this socio-legal study is *exploratory*.[[69]](#footnote-69) This method is designed to maximise the discovery of generalisations leading to a description and understanding of the group, process, activity, or situation under study, particularly when there is little or no scientific knowledge.[[70]](#footnote-70) It is suggested that this method is well-suited ‘to discover theories – causal explanations – grounded in empirical data, about how things work’.[[71]](#footnote-71) The goal of the present exploration is to discover the impact of the Committee’s State reporting procedure on Central Asia; and to provide causal explanations of the influence (if any) of the actions of the Committee on changes in human rights in the states concerned.

One can distinguish three main stages of the exploration process and their characteristics: (1) the data collection process: *flexibility* and *open-mindedness* while looking for data;[[72]](#footnote-72) (2) generalisation of the data and evidence found: based on Glaser and Strauss’s *grounded theory*;[[73]](#footnote-73) and (3) suggestion of an explanation of the impact – causal mechanism(s) – about how things work.

2.3.A. Data collection

No assumptions or hypotheses were made at the initial stage of the exploration. The main research questions, at this stage, were quite broad: What is the impact of the Committee? Is there any impact at all, or what can be recognised and proved as an impact of the work of the Committee? Why is there (or why is there not) an impact? *If* there is, or *when* there is, an impact, then which mechanisms and which factors, matter, and which do not? To what extent are the peoples of the states concerned aware of the HRCtte and its work? And, what role, if any, does the HRCtte play for different actors (state officials, local and international non-governmental organisations, lawyers, and other individuals)?

I conducted desk-based research from April 2012 to August 2013, observed the 107th session of the HRCtte in Geneva in March 2013 as a Committee member’s ‘assistant’;[[74]](#footnote-74) then I conducted field research in Central Asia from September 2013 to January 2014;[[75]](#footnote-75) and from January 2014 to the very end of this study I combined desk-research and follow-up communication with my respondents in Central Asia. During my time in Geneva, I was directly involved in the actual work of the Committee, including closed meetings and sessions, as an ‘assistant’ of one of the 18 members of the Committee. Such involvement allowed me, as a researcher, to have personal experience,[[76]](#footnote-76) and thus influenced my understanding of complexity of the work of the Committee, and the Committee’s strictly legalistic approach in dealing with any human rights problems. I also conducted interviews with Committee members, staff members of the Committee’s secretariat;[[77]](#footnote-77) and continued the communication via email. From 2018 to 2023, I was serving as national consultant, expert, staff of UN agencies in Uzbekistan. This experience has confirmed my main findings and conclusion, brining even more confidence and decision to publish this book.

During my field research in Central Asia, various data collection methods were used: interviews, group meetings, a survey, collecting relevant laws and bylaws, and secondary studies on human rights in Central Asia. In particular, 213 interviews were conducted with different domestic actors, such as state officials, defence lawyers, human rights activists, representatives of international NGOs, and law professors, whose professional activities, in one way or another, were related to the subject matter of the research: I also interviewed non-lawyers to explore possible ways in which the Committee has had an influence at the domestic level, as well as to see about the awareness of non-lawyers about the Committee and its procedures.

Nine events (in Kazakhstan: 4, in Kyrgyzstan: 2, and in Tajikistan: 3), such as conferences, roundtables and meetings, which were relevant to the research subject matter, and organised by state bodies and/or NGOs and academics, turned out to be the main points for data collection and meeting relevant people for further individual interviews. The data collected there were both written (including states’ and NGOs’ reports) and verbal (including verbal speeches of the participants and short interviews with state officials, who rarely agreed to any additional interviews on the subject matter, and referred to their ‘official’ position expressed during the event).

For example, the most eventful country was Kazakhstan, where during one month I attended four events particularly related to the work of the Committee. One of them was the Expert Conference on ‘The implementation by Kazakhstan of the United Nations Human Rights Committee’s recommendations on criminal policy and judicial system’, which was organised by a local NGO, the Legal Policy Research Centre (LPRC).[[78]](#footnote-78) There were about 80 participants, including State officials from the General Prosecutor’s Office, the Supreme Court, the Ministry of Justice and the Parliament, as well as defence lawyers from the Kazakhstan Bar, leading international and national experts, academia, and public and international organisations. The state officials not only attended the event, but they also presented their PowerPoint presentations, which were relevant to the state body they represented, on issues such as strengthening judicial independence, compliance with fair trial standards, strengthening guarantees of the independence of the bar associations, the death penalty and reform of the penitentiary system.[[79]](#footnote-79) The present study uses these studies as a source of information reflecting the state’s position on a particular human rights issue.

A similar event was conducted in Dushanbe, Tajikistan, on 18 November 2013, by a local NGO – the Bureau on Human Rights in Tajikistan (BHR) – in collaboration with the Department of Constitutional Guarantees of the Rights of Citizens of the Executive Office of the President of the Republic of Tajikistan. It was a roundtable on *Tajikistan’s implementation of the recommendations of the UN Human Rights Committee,* where the participants discussed the implementation of the latest concluding observations of the Committee given to Tajikistan, and a draft state report on this implementation that should have been presented to the Committee at the beginning of 2014. There were also several representatives of the Ministry of Justice and the Ministry of Internal Affairs, and two of them[[80]](#footnote-80) made verbal presentations; the Coalition of NGOs of Tajikistan prepared their alternative report on the subject matter of the discussion.[[81]](#footnote-81)

In Kyrgyzstan, I organised a roundtable with 20 lawyers on the impact of the work of the Committee for lawyers in Kyrgyzstan.[[82]](#footnote-82) The other event was organised and conducted by the Regional Office of the High Commissioner on Human Rights of the UN (OHCHR) and the Open Society Foundation (OSF) in Bishkek; it focused particularly on the role of NGOs in State reporting before the UN Committees.[[83]](#footnote-83)

A questionnaire for defence lawyers was drafted and distributed among lawyers in Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan. The purpose of the survey was to examine the lawyers’ awareness of the Committee and its work, and whether they use the outcomes of the work of the Committee in their professional work. The 89 completed questionnaires were analysed.[[84]](#footnote-84) Apart from that more than 100 laws and by-laws, including national plans concerning human rights in the states concerned, as well as dozens of legal studies drafted by national and international experts, were collected and analysed.

2.3.B. Generalisation of the data and evidence

Generalisation and categorisation of the finding data have been another important stage of the present study. While using the exploratory research method I was flexible in finding data, two of the categories referring to causality had to persist: one category is a cause (an action of the HRCtte), and the second one is a particular effect (a change in human rights law or practice).[[85]](#footnote-85) Other categories are explanatory factors as they explain relationships between the cause and the result. Existing studies on the influence of international institutions at the domestic level were considered to identify potentially explanatory factors. The **first factor** is *the HRCtte’s institutional design and its functions under the reporting procedure, meaning, a set of norms and rules that are expressed in the Covenant or developed by the Committee, for the purpose of regulating the Committee’s operation under the State reporting procedure*. Different specifics in institutional design, as pointed out by several social scientists, may lead to differences in the likelihood and degree of influence on a state be it through persuasion or coercion.[[86]](#footnote-86) In socio-legal terms this is the Committee’s *modus operandi.*

To paraphrase, slightly, Professor Philip Alston, it would be difficult, if not impossible, to understand, let alone evaluate the overall influence of the Committee without an understanding of the functions performed by it.[[87]](#footnote-87) The functions performed by the Committee are the set of actions of the Committee that may or may not lead to an influence. Thus, the actions of the Committee are a part of a causal mechanism of the impact/influence of the Committee. It can be ‘the actions’ that relate to all states parties to the Covenant, and/or to a particular state in the region (‘state or country-specific action’), and/or the actions that relate to other participants in the reporting procedure.

In addition, the attention to the actions is important for distinguishing the impact/influence of the Committee from the impact of the Covenant itself. Although it is true that because the Committee was established under the Covenant, any impact of the Committee can at the same time be an impact of the Covenant, not every impact of the Covenant is also an impact of the Committee. For example, if a state party introduces changes in its law and/or practice based on the sole text of the Covenant, this could be, under certain circumstances, a reflection of the impact of the Covenant.[[88]](#footnote-88) If the changes were introduced after the Committee’s particular action(s) concerning that change, it will be evaluated whether the Committee’s action is a direct or indirect cause of the changes.

The **second factor** is *the domestic politics of the state*. Stephan Haggard & Beth Simmons – scholars whose research interests include international human rights law compliance – have suggested that in order to fully understand and analyse an impact of an international body on a domestic realm, ‘one should first understand the domestic politics of that state, as domestic political forces determine patterns of international cooperation’.[[89]](#footnote-89) There are a number of other authors who emphasise domestic politics or ‘domestic structure’ – the nature of its political institutions, state-society relations, and the values and norms embedded in its political culture[[90]](#footnote-90) – as an important factor for the an influence on a state.[[91]](#footnote-91)

Drawing upon these authors, this study pays particular attention to two basic components of the domestic structure. The first component is *formal* rules and norms, which are explicitly mentioned in the domestic legislation (e.g., Constitution, codes, regulations) and/or in the international obligations of the state concerned (particularly, under the ICCPR, international customary law and generally recognised principles of law).[[92]](#footnote-92) The second component is *informal* rules and norms, which reflect the so-called ‘extra-constitutional’ reality.[[93]](#footnote-93) These components include, but are not limited to, the implicit ‘norms and decision-making procedures’.[[94]](#footnote-94) They relate to the ‘political relationship’ among actors (e.g. the federal government’s financial or political leverage over the local governments), ‘political ideologies’ (e.g. centralisation of the party in power), and the ‘roles envisioned for the state’ (e.g. centralisation or decentralisation of the economic planning of the state).[[95]](#footnote-95)

To provide causal explanations, at the initial stage, ‘in order to assure that the emergence of categories will not be contaminated by concepts more suited to different areas’ I literally ignored ‘the literature of theory and fact on the area under study’.[[96]](#footnote-96) On the latest stage, in order to identify how exactly (if at all) the Committee could or has influenced, I referred to the relevant literature on influence on states. Similarities and convergences with the existing literature and theories were established to provide an explanation of the causal mechanism of the impact of the work of the Committee at the domestic level.[[97]](#footnote-97)

1. OHCHR, *Manual on Human Rights Reporting Under Six Major International Human Rights Instruments* (1997). [↑](#footnote-ref-1)
2. See *Funds, Programmes, Specialized Agencies and Others* at https://www.un.org/en/sections/about-un/funds-programmes-specialized-agencies-and-others/index.html. [↑](#footnote-ref-2)
3. The Human Rights Council is the intergovernmental body, which replaced in 2006 the Commission on Human Rights that was established in 1946 to weave the international legal fabric that protects our fundamental rights and freedoms. [↑](#footnote-ref-3)
4. See Human Rights Bodies at https://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx. [↑](#footnote-ref-4)
5. The UN treaty bodies are ten committees of independent experts that monitor the implementation of the international treaties, under which each of the committees were established. See ***Treaty-based bodies*** at http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx: (1) [Human Rights Committee](http://www2.ohchr.org/english/bodies/hrc/index.htm) (HRCtte), (2) [Committee on Economic, Social and Cultural Rights](http://www2.ohchr.org/english/bodies/cescr/index.htm) (ComESCR), (3) [Committee on the Elimination of Racial Discrimination](http://www2.ohchr.org/english/bodies/cerd/index.htm) (ComERD), (4) [Committee on the Elimination of Discrimination against Women](http://www2.ohchr.org/english/bodies/cedaw/index.htm) (ComEDAW), (5) [Committee against Torture](http://www2.ohchr.org/english/bodies/cat/index.htm) (ComAT), (6) [Subcommittee on Prevention of Torture](http://www2.ohchr.org/english/bodies/cat/opcat/index.htm) (SPT), (7) [Committee on the Rights of the Child](http://www2.ohchr.org/english/bodies/crc/index.htm) (ComRC), (8) [Committee on Migrant Workers](http://www2.ohchr.org/english/bodies/cmw/index.htm) (ComMW), (9) [Committee on the Rights of Persons with Disabilities](http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx) (ComRPD), and (10) [Committee on Enforced Disappearances](http://www.ohchr.org/EN/HRBodies/CED/Pages/CEDIndex.aspx) (ComED). [↑](#footnote-ref-5)
6. See *The Core International Human Rights Instruments and their monitoring bodies,* at <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>. [↑](#footnote-ref-6)
7. See, e.g., “CALL FOR SUBMISSIONS: The President of the UN General Assembly is inviting States, national human rights institutions and civil society to contribute to the review of the UN treaty body system”, 17 June 2020, at

<https://www.ohchr.org/Documents/HRBodies/TB/UN_Human_Rights_Treaty_Body.PDF>; A report by the United Nations High Commissioner for Human Rights, *Strengthening the United Nations human rights treaty body system*, GA/66/860 (June 2012); UN GA Resolutions: A/RES/66/254, ‘Intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system’ (15 May 2012); A/RES/68/268, ‘Strengthening and enhancing the effective functioning of the human rights treaty body system’ (21 April 2014); see more about Treaty Body Strengthening process on the website of the UN Office of High Commissioner for Human Rights (OHCHR),

 http://www.ohchr.org/EN/HRBodies/HRTD/Pages/TBStrengthening.aspx. [↑](#footnote-ref-7)
8. The UN Secretary-General, the “COVID-19 and Human Rights We are all in this together” UN policy brief, 23 April 2020, New York. [↑](#footnote-ref-8)
9. News Release “COVID-19: Exceptional measures should not be cover for human rights abuses and violations – Bachelet”, 27 April 2020. [↑](#footnote-ref-9)
10. See, e.g., News Release “UN expert outlines urgent steps to ensure justice systems are not paralysed by COVID-19” by the Special Rapporteur on independence of judges and lawyers, Diego García-Sayán, 22 April 2020. [↑](#footnote-ref-10)
11. [↑](#footnote-ref-11)
12. [↑](#footnote-ref-12)
13. The UN treaty bodies are ten committees of independent experts that monitor the implementation of the international treaties, under which each of the committees were established. See ***Treaty-based bodies*** at http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx: (1) [Human Rights Committee](http://www2.ohchr.org/english/bodies/hrc/index.htm) (HRCtte), (2) [Committee on Economic, Social and Cultural Rights](http://www2.ohchr.org/english/bodies/cescr/index.htm) (ComESCR), (3) [Committee on the Elimination of Racial Discrimination](http://www2.ohchr.org/english/bodies/cerd/index.htm) (ComERD), (4) [Committee on the Elimination of Discrimination against Women](http://www2.ohchr.org/english/bodies/cedaw/index.htm) (ComEDAW), (5) [Committee against Torture](http://www2.ohchr.org/english/bodies/cat/index.htm) (ComAT), (6) [Subcommittee on Prevention of Torture](http://www2.ohchr.org/english/bodies/cat/opcat/index.htm) (SPT), (7) [Committee on the Rights of the Child](http://www2.ohchr.org/english/bodies/crc/index.htm) (ComRC), (8) [Committee on Migrant Workers](http://www2.ohchr.org/english/bodies/cmw/index.htm) (ComMW), (9) [Committee on the Rights of Persons with Disabilities](http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx) (ComRPD), and (10) [Committee on Enforced Disappearances](http://www.ohchr.org/EN/HRBodies/CED/Pages/CEDIndex.aspx) (ComED). [↑](#footnote-ref-13)
14. See, e.g., A report by the United Nations High Commissioner for Human Rights, *Strengthening the United Nations human rights treaty body system*, GA/66/860 (June 2012); UN GA Resolutions: A/RES/66/254, ‘Intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system’ (15 May 2012); A/RES/68/268, ‘Strengthening and enhancing the effective functioning of the human rights treaty body system’ (21 April 2014); see more about Treaty Body Strengthening process on the website of the UN Office of High Commissioner for Human Rights (OHCHR), http://www.ohchr.org/EN/HRBodies/HRTD/Pages/TBStrengthening.aspx. [↑](#footnote-ref-14)
15. See UN Doc. A/6316 (1966), 999 UN TS 171. [↑](#footnote-ref-15)
16. ICJ, *Republic of Guinea v. Democratic Republic of the Congo* (hereinafter *Diallo case*), Judgement of 30 November 2010, para. 66. [↑](#footnote-ref-16)
17. ICCPR, Art. 40. [↑](#footnote-ref-17)
18. ICCPR, Arts. 41–42. See more on this procedure, e.g., Bossuyt (1987), pp. 635–717; Tyagi (2011): on article 41 ICCPR: pp. 334–43, 362, 391, 404–16, 480, 761, 840–2; on Article 42 ICCPR: pp. 842–43; Nowak (2005), pp. 580–614. [↑](#footnote-ref-18)
19. For about this procedure, see e.g., Ghandhi (1998); Mose & Opsahl (1981); McGoldrick (1994), pp. 13–14, 50–55, 120–246; Tyagi (2011): on the individual communication procedure see pp. 785, 386–630, 741, 799–802, 808. [↑](#footnote-ref-19)
20. See, U.N. Doc. A/6546, 21 GAOR, Plenary meeting, Agenda Item 62, 1495th meeting (16 December 1966), paras. 159 and 160. [↑](#footnote-ref-20)
21. McGoldrick (1994), p. 63. [↑](#footnote-ref-21)
22. See about the Central Asian Soviet Republics, e.g., in Carrère d’Encausse, ‘The National Republics Lose Their Independence’ (1967), pp. 254–265. [↑](#footnote-ref-22)
23. The former USSR ratified the ICCPR on 16 October 1973 (see status of ratification, reservations and declaration at https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\_no=IV-4&chapter=4&lang=en). [↑](#footnote-ref-23)
24. See Naumkin (1994), p. 2: ‘[A]t the meeting of the heads of state of the region held in Tashkent at the beginning of January 1993, it was decided to name the region encompassing Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan and Turkmenistan as Central Asia’. See more about Central Asia, e.g., in Allworth (1989), p. 1; Rumer (1990). [↑](#footnote-ref-24)
25. On the concept of ‘delegated’ or ‘expressed’ powers, see, Dissenting Opinion of Judge Hackworth, in the Advisory Opinion of the ICJ on *Reparation for Injuries* case (1949). See also Campbell (1983), pp. 524–9; Roma-Montaldo (1970), p. 114; Kelsen(1957), p. 330; Seyersted(I966), pp. 143, 182. [↑](#footnote-ref-25)
26. See, ICJ, *Reparation for Injuries* (1949) case, at 174–88, at 181-2: ‘This principle of law was applied by the Permanent Court of International Justice to the International Labour Organization in its Advisory Opinion No. 13 of July 23rd, 1926 [Series B., No. 13, p. 18], and must be applied to the United Nations’. On the concept of *implied powers*, see also, Rama-Montaldo (1970), pp. 111–56; Blokker (2013); Campbell (1983), pp. 523–33. [↑](#footnote-ref-26)
27. ICJ, Advisory Opinion on *Legality of the Use by a State of Nuclear Weapons in Armed Conflict* (1996), para. 25. [↑](#footnote-ref-27)
28. See, e.g., UN Docs. E./CN.4/SR.428 (1954), p. 11 (the Committee had ‘to deal with complaints and not to receive the reports’). See also relevant Reports of the Human Rights Commission, e.g. E/2447 (1953), para. 128 (‘though the Committee was not a Court, it would have fact-finding functions to perform for which it would be inadvisable to depart from the existing practice of international bodies of a judicial or quasi-judicial character under which the knowledge of the facts of a case acquired by an outgoing member was as far as possible made use of, and the danger of admitting new members unacquainted with the former proceedings during the examination of a case, was obviated’). [↑](#footnote-ref-28)
29. See 21 UN GAOR, UN Doc. AC.3/SR.1426 (1966), para. 20 (Canada); see also paras. 34 and 37 (the statements of the representatives of New Zealand and Greece); UN Doc. AC.3/SR.1427 (1966), para. 7. [↑](#footnote-ref-29)
30. See, e.g., Villiger (2009), pp. 1-27 (‘Issues of customary international law’) and the ‘Customary Basis’ section in the commentary of each Article. [↑](#footnote-ref-30)
31. For a discussion of the literature that reflects both the legal and political science debate on the compliance theory, see Raustiala and Slaughter, ‘International Law, International Relations and Compliance’ (2002), pp. 538-558. With regard to the interdisciplinary literature that reflects the matter of influence on state, based on international law, international relations and social psychology, see, e.g., X.Dai, ‘The “compliance gap” and the efficacy of international human right institutions’ (2013), p. 94; Goodman & Jinks ‘How to Influence States: Socialization and International Human Rights Law’ (2004), pp. 621–703; Goodman & Jinks ‘Incomplete Internalization and Compliance with Human Rights Law’ (2008), pp. 725–748; Drezner(2006). [↑](#footnote-ref-31)
32. Moravcsik (2000), p. 220: ‘Existing scholarship seeking to explain why national governments establish and enforce formal international human rights norms focuses on two modes of interstate interaction: coercion and normative persuasion.’ [↑](#footnote-ref-32)
33. See, e.g., Goodman & Jinks (2004), p. 632 (‘rationalists emphasize the coercion mechanism’); see also, Waltz (1979); Johnston (2001), at pp. 487-515 (Johnston compares rationalists’ – neorealists and contractualists – with constructivists’ conceptions in the socialisation theory); Waltz (1979). [↑](#footnote-ref-33)
34. See Chayes & Chayes (1995). See also Checkel (Fall 2005), p. 812 (‘[m]ost would agree that persuasion operates in international institutions’); Johnston (2001); Goodman & Jinks (2004) (these scholars, while providing a more extended statement on their research agenda in psychology and sociology, refer to Harre, *Social Being: A Theory for Social Psychology* (1979), to Zimbardo, *The Psychology of Attitude Change and Social Influence* (1991), and to Claldini, *Influence: The New Psychology of Modern Persuasion* (1984), at pp. 163-99. [↑](#footnote-ref-34)
35. See Goodman & Jinks (2004), p. 632 (‘constructivists emphasize the persuasion mechanism’). See also Karber, ‘"Constructivism" as a Method in International Law’ (2000), pp. 189-192. For more information on the constructivist literature see, e.g., Brunnee & Toope, ‘Constructivism and International Law’ (2012). [↑](#footnote-ref-35)
36. See Chayes & Chayes (1995); Chayes & Chayes (1993), pp. 175-205. [↑](#footnote-ref-36)
37. See similar observation, e.g., in Checkel (2005), p. 801. [↑](#footnote-ref-37)
38. Goodman & Jinks (2004), p. 633. See also Bossuyt (2000), ‘The adverse consequences of economic sanctions on the enjoyment of human rights,’ the Report for the UN ECOSOC (Sub-Commission on the Promotion and Protection of Human Rights); Schoppa (1999), p. 307; Gallagher, ‘Sanctions' Effects on Human Rights Violations’ (2001); Shagabutdinova & Berejikian, ‘Deploying Sanctions while Protecting Human Rights: Are Humanitarian “Smart” Sanctions Effective?’ (2007), pp. 59–74; Peksen, ‘Better or worse? The effect of economic sanctions on human rights’ (2009), pp. 59-77; Wall, ‘Human Rights and Economic Sanctions: The New Imperialism’ (1998), pp. 577-611; Malloy, ‘Economic Sanctions and Human Rights: A Delicate Balance’ (1995); Martin, ‘Credibility, Costs, and Institutions: Cooperation on Economic Sanctions’ (1993), p. 413. [↑](#footnote-ref-38)
39. See UN Charter, Arts. 2(7), 24, 41 and 51. [↑](#footnote-ref-39)
40. See The International Commission on Intervention and State Sovereignty, *Report on the Responsibility to Protect* (2001) (‘humanitarian intervention […] [w]here a population is suffering serious harm, as a result of […] repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect’). See also, Zyberi, *An Institutional Approach to the Responsibility to Protect* (2013). [↑](#footnote-ref-40)
41. For more about the ‘indirect sanctions’ approach, read the literature describing ‘*institutionalism,*’ e.g., Peyton Young (1998), pp. 25-90; Hathaway (2002), pp. 1950–2; Keohane (1996); Moravcsik (1991), p. 27. For more about ‘soft’ compliance mechanisms, such as ‘social sanctions and supervision’, see, e.g., Risse, Ropp and Sikkink (2013), p. 26; Checkel (1998) pp. 324-48; Finnemore & Sikkink, (1998), pp. 887-917; Simmons (2009). [↑](#footnote-ref-41)
42. See, e.g., Andreoni, Harbaugh & Vesterlund (2003), p. 901 (‘[c]ombining rewards and punishments had a very strong effect. In the Carrot-Stick treatment, the modal offer was the most generous one possible, often leading to rewards by responders. Even though generous offers were not punished, such generosity was only reached when the threat of punishments existed. This indicates that rewards and punishments act to complement one another’). [↑](#footnote-ref-42)
43. Goodman & Jinks (2004), p. 635. [↑](#footnote-ref-43)
44. See Raustiala & Slaughter (2002), p. 544; Finnemore (1996), p. 141 (‘[n]ormative claims become powerful and prevail by being persuasive’). In fact, the modern normative theory of international law compliance is the result of studies that were built on or reflected in the work of early constructivists such as Ruggie (1975) and Kratochwil (1989), as well as on the work of early English School legal scholars, such as Bull (1977). Professor Hedley Bull wrote that one of the functions of international law is ‘to help to mobilise compliance with the rules of international society’ (see Bull [1977], pp. 140-1). [↑](#footnote-ref-44)
45. Checkel (2007), p. 13. See also Chayes & Chayes (1995); Slaughter (2000), p. 205 (the author describes the transgovernmental networks in which ‘[t]he dominant currency is engagement and persuasion’); Raustiala (2002) (‘when networks promote regulatory change, change occurs more through persuasion than command’); Payne, (2001) (Professor Payne explains that ‘persuasion is considered the centrally important mechanism for constructing and reconstructing social facts’). [↑](#footnote-ref-45)
46. ‘Internalisation and socialisation’ are the processes ‘of indicting actors into the norms and rules of a given community’ (see Checkel [2007], p. 5). For more about the ‘internalisation and socialisation’ of international norms, e.g., Risse, Ropp & Sikkink (1999), pp. 1-38; Checkel (2005), pp. 801–26; Goodman & Jinks (2004), pp. 621–703; Cleveland (2001); Johnston (2001), pp. 487-515 (the author considers socialisation theory, focusing ‘on two basic microprocesses in [it] – persuasion and social influence – and develops propositions about the social conditions under which one might expect to observe cooperation in institutions’). [↑](#footnote-ref-46)
47. Chayes & Chayes (1995), p. 25. [↑](#footnote-ref-47)
48. Chayes & Chayes (1993), pp. 202 and 198. [↑](#footnote-ref-48)
49. Posner & Goldsmith (1999), pp. 1113-77. [↑](#footnote-ref-49)
50. See, e.g., Snidal (1985) and Snidal (2006); Stein (1982); Haggard & Simmons (1987); Koh (1996). [↑](#footnote-ref-50)
51. Posner & Goldsmith (1999), p. 1131: ‘The model [of repeated interactions] shows that as long as parties either experiment or occasionally make errors, and as long as they interact frequently, parties will eventually coordinate on Pareto-optimal actions’ (fn. 42). See also Peyton Young (1998), pp. 25-90. [↑](#footnote-ref-51)
52. See Guzman (2002), p. 11; Koh (1996), p. 204 (‘through this repeated process of interaction and internalization international law acquires its “stickiness”, nation-states acquire their identity, and nations define promoting the rule of international law as part of their national self-interest’). [↑](#footnote-ref-52)
53. Posner & Goldsmith (1999), p. 1171. See also, e.g., Drezner (2006), p. 147 (in which the author drew attention to the two-level game approaches in the process of interaction of domestic and international institutions); and Johnston, ‘The Social Effect of International Institutions on Domestic (Foreign Policy) Actors’, in Drezner (2006). [↑](#footnote-ref-53)
54. See, e.g., Dai, in Risse, Ropp & Sikkink (2013), p. 86. [↑](#footnote-ref-54)
55. Clark, in Risse, Ropp & Sikkink (2013), pp. 125-144. [↑](#footnote-ref-55)
56. See particularly Keller & Ulfstein (2012); Tyagi (2011); Alfredsson, Grimheden, Ramcharan and Zayas (2009); Nowak (2005), pp. 712-752; Buergenthal (2001); Ando (2000), pp. 17–32; Boerefijn (1999); Ghandhi (1998); McGoldrick (1994); Bossuyt (1987); Jhabvala (1984), pp. 81-10; Fischer (1982), pp. 142-153; Mose & Opsahl (1981); Schwelb (1) (October 1968), pp. 827-868; Schwelb (2) (1968), pp. 270-289. [↑](#footnote-ref-56)
57. See, e.g., Cohn (1991), pp. 295–321 (considered ‘the changes that states have connected to either the Committee or the Covenant, in three main ways: the use of Committee comments in legislative development, the use of the Covenant in legislative development, and judicial use of the Covenant. No country reported judicial use of Committee comments’ [p. 297]). See also Niemi (2003); Keith (1999), pp. 95-118; Heyns & Viljoen (2001), pp. 483–535. The latter research was undertaken in 1999–2000 in collaboration with the Office of the High Commissioner for Human Rights (OHCHR). Among other aspects of the impact of the treaties, the study assessed ‘the influence, which may have occurred because of the work of international mechanisms for norm enforcement, such as reporting, individual complaints’. It contains the findings of the authors of an investigation into the impact of the treaties, as well as two procedures in a sample group of 20 countries around the world, but does not include any country from Central Asia. [↑](#footnote-ref-57)
58. Rouwette, ‘Book Review’ on Tyagi (2011). [↑](#footnote-ref-58)
59. ‘Concluding observations’ is a document adopted by the HRCtte under article 40 of the Covenant at the end of the consideration of each state report, and therefore relates only to a particular state party. [↑](#footnote-ref-59)
60. ‘General comments’ is a document that ‘should summarize experience the Committee has gained in considering States reports’, and ‘could be related, *inter alia*, to the following subjects: questions related to the application and the content of individual articles of the Covenant’ (see the consideration of this issue at the 11th session of the HRCtte in October 1980, Annual Report, A/36/40, vol. 1 (1981), pp. 101-102). This document, unlike concluding observations, is applicable to any states parties to the ICCPR and the OP (when applicable). [↑](#footnote-ref-60)
61. ‘Views’ is a document that the Committee adopts on the substance, or merits of the complaint on an individual case; the Views consist of either a finding of violation, or a finding of non-violation, or a mixture of both if the complaint has made a number of allegations (see e.g. *Human Rights Committee Fact Sheet No.15*, at http://www.ohchr.org/Documents/Publications/FactSheet15rev.1en.pdf). [↑](#footnote-ref-61)
62. See, as exceptional studies on the matter of the impact of the Committee at the domestic level, e.g., Devereux and Anderson, ‘Reporting under International Human Rights Treaties: Perspectives from Timor Leste’s Experience of the Reformed Process’ (2008). [↑](#footnote-ref-62)
63. See, e.g., Niemi (2003), where ‘national implementation’ consists of: 1) Translation and dissemination of treaty body output as a precondition for its effective use at the national level; 2) Establishment of a national mechanism for the implementation of treaty body findings and for the follow-up of progress in this respect; 3) Use of treaty body output in the legislative process; and 4) Use and implementation by the judiciary of treaty body findings. [↑](#footnote-ref-63)
64. The terms ‘non-governmental organisations (NGOs)’ and ‘civil society organisations (CSOs)’ are interchangeable in the present work and include any non-governmental human rights organisations, institutions, foundations, associations, groups or individual activists. [↑](#footnote-ref-64)
65. See Keith (1999), p. 112. See also, ibid, Heyns & Viljoen (2001), p. 488. [↑](#footnote-ref-65)
66. The definition of the ‘domestic regime’, for the present purposes, is derived from Krasner’s definition of ‘regime’ (see, Krasner, ‘Structural Causes and Regime Consequences: Regimes as Intervening Variables’ [1982], p. 185; see also Keohane & Nye [1977], p. 19). [↑](#footnote-ref-66)
67. Dinah (2000), p. 5. [↑](#footnote-ref-67)
68. Krasner (1982), pp. 186-188 (emph. added). [↑](#footnote-ref-68)
69. The exploratory method first entered the sociologist’s lexicon in 1967, with the publication of Barney Glaser and Anselm Strauss, *The Discovery of Grounded Theory: Strategies for Qualitative Research* (1967). See also, e.g., Stebbins, ‘Exploratory Research in the Social Sciences’ (2001), p. ix; Charmaz (2002), pp. 675–94; Russell and Ryan (2010), pp. 265–28. [↑](#footnote-ref-69)
70. See more about the exploratory research method: Stebbins (2001), pp. 3, 6. [↑](#footnote-ref-70)
71. Russell & Ryan (2010), p. 267. [↑](#footnote-ref-71)
72. Stebbins (2001), p. 6; see also Alvesson & Skoldberg (2000), p. 55. [↑](#footnote-ref-72)
73. Glaser & Strauss (1967); Stebbins (2001), p. 6, and Glaser (1978), p. 3, and (1995), p. 17. [↑](#footnote-ref-73)
74. See my observations of the session on my blog http://unhrcom.blogspot.co.uk/2013/06/the-lates-session-of-hrc-107th-session.html. [↑](#footnote-ref-74)
75. The field research was conducted from September 2013 to January 2014 inclusive. At this stage, four states in the region were visited: Kazakhstan (September 2013), Kyrgyzstan (October 2013), Tajikistan (mid-November – mid-December 2013), Uzbekistan (January 2014). Only Turkmenistan was left out of the research due to problems related to getting a Turkmen visa allowing entry into Turkmenistan. Therefore, analysis of the impact on Turkmenistan was limited to desk-based materials, secondary information, and other information, which was gathered via the Internet (e.g., via email exchanges and conversations via Skype with NGOs, and local and international stakeholders). The information was mostly used either to prove some common regional findings and suggested conceptions of the impact of the Committee on Central Asia, such as dependence on the impact of the Committee’s work on foreign and domestic policies; or to learn about very specific issues, such as the initial state report submission, which was delayed by 13 years. [↑](#footnote-ref-75)
76. On the importance of a researcher’s personal and theoretical experiences see Glaser and Strauss (1967), p. 3 (fn. 3), pp. 67, 252 (it ‘will help him [or her] see relevant data and abstract significant categories from his [or her] scrutiny of the data’). [↑](#footnote-ref-76)
77. All of the HRCtte Secretariat staff members interviewed seemed reluctant to discuss any matters regarding the work of the Committee, and made a particular request not to mention their names and positions in any research. [↑](#footnote-ref-77)
78. This event was supported by the United National Development Programme (UNDP) in Kazakhstan, National Endowment for Democracy and the Embassy of the Kingdom of the Netherlands in Kazakhstan. See *My Field Notes:* Kazakhstan, Almaty, 27.09.2013; see also the conference materials (in Russian). [↑](#footnote-ref-78)
79. Other events were the following:

1) Astana, 19.09.2013, Ministry of Foreign Affairs of the republic of Kazakhstan: The Kazakhstan presidential Commission on Human Rights presented its report on human rights in Kazakhstan. There were about 150 participants (state officials, local and international non-governmental organisations, regional OHCHR representatives, academicians, journalists), including Kazakhstan Secretary of State Marat Tazhin, Kazakhstan Minister of Foreign Affairs Erlan Idrissov, Chairman of the Commission on Human Rights Kuanysh Sultanov; the UK Ambassador to Kazakhstan, Carolyn Brown, Head of IOM Mission for Central Asia Deyan Keserovich and Head of OSCE Centre in Astana Natalia Zarudna.

2) Almaty, 23.09.2013, Experts meeting on ‘NGO participation in the drafting and presentation of the next alternative reports for the UN Committee Against Torture and Human Rights Committee’. The meeting of 25 participants was organised and conducted by the Legal Policy Research Centre (LPRC). During this event the participants discussed the new form of the State reporting procedures before the UN Committees.

3) Almaty, 02.10.2013, International Business Academy, Public discussion on ‘The law enforcement system reforms in Kazakhstan in the context of the historical legal heritage of Kazakhstan’. [↑](#footnote-ref-79)
80. Namely, Mr Ashurov M., Head of the Department of Constitutional Guarantees, and Mr Alizoda Z., Commissioner for Human Rights in the Republic of Tajikistan (see interviews on 18.11.2013, Dushanbe,Tajikistan). [↑](#footnote-ref-80)
81. See ibid. See, also, my notes on the other two events: 1) Dushanbe, 02.12.2013, training on ‘Freedom of Information’. The training for about 20 journalists and lawyers was organised and conducted by a local NGO*,* Independent Centre for Human Rights Protection; 2) Dushanbe, 06.12.2013, conference dedicated to the 65th anniversary of the Universal Declaration of Human Rights; it was organised and conducted by the Ombudsman of Tajikistan. [↑](#footnote-ref-81)
82. See *My Field Notes:* Kyrgyzstan, Bishkek, 11.10.2013. [↑](#footnote-ref-82)
83. See *My Field Notes:* Kyrgyzstan, Bishkek, 21.10.2013. [↑](#footnote-ref-83)
84. Tajikistan: 46; Kazakhstan: 25; Kyrgyzstan: 11; Uzbekistan: 5 and Turkmenistan: 2. [↑](#footnote-ref-84)
85. See more specifically, Strauss (1987), p. 27; Strauss and Corbin (1990). [↑](#footnote-ref-85)
86. See, e.g., Johnston (2001), where the author, while discussing the process of socialisation of international norms at the domestic level, considers, *inter alia,* that different institutional designs which may lead to different socialisation processes (see, e.g., pp. 498, 509, and many references to the work of other scholars). [↑](#footnote-ref-86)
87. Alston (1992), p. 1. [↑](#footnote-ref-87)
88. See, e.g., Heyns & Viljoen, *The Impact if the United Nations Human Rights Treaties on the Domestic Level* (2024), where the authors consider separately the effect of the ‘reporting obligations’ and ‘individual communications’ procedures. [↑](#footnote-ref-88)
89. Haggard & Simmons (1987), p. 499. [↑](#footnote-ref-89)
90. Risse-Kappen (1994), p. 187. [↑](#footnote-ref-90)
91. See, e.g., Milner (1997); Putnam (1988), pp. 448–50; Moravcsik (1993), pp. 24–27), Risse-Kappen (1995), p. 6, Evangelista 1997. [↑](#footnote-ref-91)
92. Blanchard (2006), p. 55; Dochacek (1970), p. 277. [↑](#footnote-ref-92)
93. Ibid., Dochacek. [↑](#footnote-ref-93)
94. Blanchard (2006), p. 55. [↑](#footnote-ref-94)
95. Ibid. See also Dochacek (1970), pp. 279, 311, 324-329. [↑](#footnote-ref-95)
96. Glaser and Strauss (1967) p. 37. [↑](#footnote-ref-96)
97. See Alvesson and Skoldberg (2000), pp. 56-57; Glaser and Strauss (1967), p. 28. [↑](#footnote-ref-97)