The Space Between Ratification and Compliance: Implementation of International Human Rights Agreements

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The reasons behind states' ratification of international human rights agreements have been the object of extensive investigations. However, it has also been proven that states' initial commitment to human rights treaties does not necessarily lead to improved human rights standards. Indeed, a systematic analysis of the annual reports and concluding observations of the committees overseeing compliance with the international human rights instruments shows that, often, states members fall under the scrutiny of the UN treaty based bodies for not abiding by the terms of the agreements. The author contends that, although ratification of human rights treaties is an important component of compliance with human rights, vague international human rights standards and a weak international enforcement system, create meaningless commitments, only enforceable by internationally aligned national legislation. This study proposes a systematic analysis of the UN human rights treaties committees' reports and concluding observations to understand what happens within the domestic legislation once states become members of international human rights agreements.

Keywords: human rights, implementation, compliance, reporting

Introduction

One of the critical moments for the effective national functioning of international human rights agreements and states compliance with international human rights standards is the implementation in states' domestic legal systems of the norms set in international agreements. Although ratification of human rights treaties is an important component of compliance with international obligations, vague international human rights standards, favored to increase membership, and a weak international enforcement system, creates meaningless commitments, only enforceable by national legislation. Scholars (Koh, 1998) have noted that because international human rights obligations lack mechanisms of enforcement that are typical of domestic laws, where police, prosecution, and penalties constitute the support system for the potential respect of domestic rules, changes in domestic legislation, which align national laws with the international human rights standards are particularly important. Similarly, studies (Koh, 1998) have recognized that implementation and internalization of international human rights laws defeats the purpose of international enforcement mechanisms. Once the domestic legislation is aligned with the international standards, national courts are empowered to monitor and sanction violations of international agreements. This seems to suggest that to strengthen states' international obligations, one of the critical steps would be that of providing international rules with the same support system that domestic rules possess. For this change to occur, international law must be brought into the domestic legal

system and its rules treated as any other domestic law. Over time scholars have examined a multitude of factors leading to countries' poor human rights standards; indicators such as democracy, the size of the population, and the structure of executive constraints, have all been taken into consideration (Poe & Tate, 1994; Davenport, 1999; Conrad, 2014). However, while there is some evidence showing that the implementation of international human rights agreements increases their effectiveness in terms of states' compliance (Heyns & Viljoen, 2002), this study tries to address the issue systematically, by looking at the quantity of UN human rights committees' reports and concluding observations indicating that member states have not implemented the agreements into their national legislation. This article proposes a preliminary analysis of these statements and the implications they have for states' full compliance with human rights agreements. In this study, I address two of the core international human rights agreements, the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Elimination of Discrimination against Women (CEDAW). Because of the high number of members to the agreements and the number of reports published by the monitoring committees, these two agreements offer a considerable amount of information about state behavior after ratification regarding implementing legislation.

This study is particularly important for different reasons. For quite some time international lawyers and international relations scholars (Hathaway, 2002) have been observing the increasing proliferation and ratification of international treaties. States have been particularly active in "internationalizing" several issues and areas previously relegated to domestic legal affairs. This has been the result of increasing interactions among states, which has considerably expanded the integration of states into the international community and the consequent necessity of operating within a much larger international space. Nonetheless, it has also been observed (Hafner-Burton & Tsutsui, 2005) that despite the proliferation of international agreements and increasing commitment to their legal obligations, states have been reluctant to change domestic judicial procedures and laws that would align their domestic legal framework to the rules present in the agreements. Thus, the proliferation of international norms and the ratification of these agreements by states have not been followed by a domestic legal incorporation and judicial application of the international rules.

This behavior has been the object of several criticisms by those supporting international legal instruments who suggest that the incorporation of international rules and the adaptation of the domestic legal system are particularly important for the promotion of a binding and effective international legal regime. This situation has led the international community to create, on more than one occasion, monitoring systems that support the implementation of the international agreements in terms of states acting to adapt their domestic legal framework to the international rules. It has become particularly common, during the crafting of international agreements, for states to arrange for some kind monitoring institution that, not only examines the steps undertaken by the domestic legislations of ratifying states to adapt their legal standards to those of international agreements, but also requests constant reporting by state parties to an agreement regarding the status of their implementation process.

These events are a clear indication that not only the implementation of international agreements is valued by international operators, but also that it is perceived as a step in the overall compliant behavior that could impact the quality and effectiveness of the international regimes. I build upon this evidence by looking at reports published by the UN monitoring committees and assess the quantity and quality of the complaints of the committees about lacking domestic legislation.

The work is organized as follow. First, it gives a brief definition of the term “implementation” and the different terms that are used within the scholarly literature. Next, it presents some arguments to justify the importance of analyzing implementation in states’ compliance behavior. Hence, in the next section, it provides a brief description of the international human rights treaties analyzed in the paper and their respective monitoring system and lastly an initial assessment of the implementation status of these agreements by the member states.

What Implementation Is and Why It Is Important for States’ Compliance Behavior

I define implementation as “the process through which the domestic legal system of states nation incorporates international agreements in their domestic legal framework, whether by the passage of legislation or by the acceptance and incorporation of international laws”.

The definition follows a legal rationale according to that implementation is the placement of international norms into the domestic legal system regardless of whether the international treaty is “directly applied” in its entirety into the domestic system or the domestic legislation is altered/modified to create norms in line with the international obligations.

The term implementation is at times used to identify different steps in the overall integration of the international agreement into the domestic system. Most of the times scholars have referred to the same stage with different terms considering that various legal systems have at their disposal diverse procedures for the implementation of international rules. For example, to indicate the same concept, scholars (Jackson, 1992) also use terms such as “incorporation”, “reception”, “adoption” and “publication”. All these terms in reality only point to the different procedures followed by states given the status of their domestic legislation vis a vis the international rules and/or the particular procedures states proscribed in internalizing international rules¹. But, they do not differ in the end result; the presence of the international rule in the domestic legal framework has the same binding character of any other domestic rule.

The Importance of Implementing International Agreements

Regardless of the mechanisms through which international agreements become internalized, the importance of implementing procedures and actual internalization of international agreements has been examined by scholars. Some studies (Conforti, 1993; Bayefsky, 2001; Koh, 1998) indicate that the effectiveness and relevance of international law resides primarily in the domestic legal and political realm of nation states, in the sense that the non-binding character of international rules and the absence of international enforcement mechanisms calls necessarily for the internalization of supranational rules where enforcement mechanisms are present. Nonetheless, there is still much to be analyzed about the relationship between international and national law. In particular, it is very evident that, in spite of the fact that national governments recognize the superior hierarchical status of international law over national law, by claiming to apply international rules over any domestic legislation at odds with the international obligations, states still tend to show a rhetorical respect of international norms. Most of the time the acceptance and the incorporation of international rules in the domestic legal framework is disregarded by domestic legal operators and this, in turn, weakens considerably the effectiveness of ratified international obligations. Other times, national judges and

¹ For example, publication refer to the process through which some states assign binding character to passed legislation only after a period of publication of the legislation in governmental bulletin available to all citizens.

lawyers lack the necessary education and information to appeal to international rules. Through the implementation of international agreements, states tend to give international obligations a certain status and signal a specific understanding of the position of international norms within the domestic system. In fact, as some part of the literature has argued (Koh, 1998), international agreements are toothless and weak, and only by “transforming” them into domestic law, through implementation procedures, can international obligations acquire some weight in the compliance mechanism. This is not to say that implementation will solve the problems of compliance and international rules and obligations will never be violated (Koh, 1998). After all this is not even true for domestic laws, which are as well “not perfectly enforced”; violations of domestic laws occurs in spite of their binding character. However, the internalization of international obligations provides further instruments to nation states to reinforce their compliance with international obligations.

These factors indicate that the incorporation of international norms in the domestic legal framework of states ratifying international agreements is of critical importance. While the process of implementation can be highly diverse due to legal and domestic political processes of various governments, the implementation of international norms in general and human rights treaties in particular is of critical importance in understanding states’ compliant behavior. As many scholars have already recognized (Scheinin, 2000; Conforti, 1993; Iwasawa, 2000; Donnelly, 1996; Donnelly, 2003), the incorporation of international norms by domestic courts and other domestic legal operators is the foundation of international law for two basic reasons: Firstly, judges and “domestic legal operators”² (Conforti, 1993, p. 8) can apply these international norms in their domestic legal system increasing the strength and the binding character of international rules; Secondly, the implementation of international law and in particular human rights law is ultimately a national issue, because human rights violations occur within states and are committed by domestic political actors.

With regard to the first point, evidence shows that the international system of human rights protection “has had its greatest impact when treaty norms have been made part of domestic law more or less spontaneously (for example as part of constitutional and legislative reform)” (Heyns & Viljoen, 2002, p. 5)³. From an operational point of view the incorporation of a human rights treaty into the formal body of a domestic legal system is the result of a constant interaction between international institutions and domestic actors. Scholars (Koh, 1998) have indicated that one of the most important aspects in the internalization process of international human rights law is the vertical relationship between international entrepreneurs and national operators. Bayefsky (2001) writes of a “cycle of engagement” in which the most critical moment is the periodic dialogue between national legal operators and international institutions supporting human rights treaties discussing domestic laws and policies and checking them against international obligations. The attention devoted to this process of engagement clearly shows that both scholars and practitioners are aware of the importance of the implementation of international agreements. Indeed, the result is that the internalization of international treaties allows and facilitates judges and domestic courts to apply their provisions when they are invoked by individuals. This is to say that the goals that international human rights laws tend to pursue can be achieved by the internal

² According to Conforti (1993), “Domestic legal operators are those charged by the State community to apply and enforce law and include judges, first and foremost” (p. 8).

³ Leonard (2005) indicates that for example Europe’s power, when it comes to enforcing international law, stands on its ability to contribute to the democratization process of countries, which present their candidacy to the Community, and to make them “swallow all 80,000 pages of European laws and adapt their own legislation to accommodate them” (p. 45). The adaptation of their legislation, although within some margins of allowed domestic discretionality, is a *condicio sine qua non* for their entrance into the European Community.

legal system of governments; international obligations transformed into national laws can use the same tools of support that domestic legislation use.

In fact, as indicated above, the absence of enforcement mechanisms at the international level weakens the binding character of international norms. In many cases, international institutions can only play a secondary role due to the lack of resources of international organizations as well as the lack of a deep understanding of domestic mechanisms of justice; even more as cogently pointed out by scholars (Cassese, 1990; Conforti, 1993), “the international community does not have at its disposal the legal means to enforce international treaties effectively and impartially” (Conforti, 1993, p. 10). It is true that several human rights treaties have created international organs and institutions for individuals’ complaints, but it is also true that most of these international institutions can only intervene once all the domestic mechanisms of individuals’ rights protection have been exhausted. Thus, it has been recognized that the “central procedural principle of the contemporary human rights regimes is the national jurisdiction over human rights violations” (Donnelly, 1996, p. 608).

Scholars (Koh, 1998) call this process as one in which “the international law is brought home”. One of the steps through which international law is enforced domestically is through the domestic legal enactment of global norms which give national actors the opportunity to directly interact with international rules and organizations thus pressuring leaders to shift “their policy of violation into one of compliance” (Koh, 1998, p. 1412). According to Koh, the enactment of international law evolves in different steps and all of them lead to a domestic acceptance and enforceability of rules that would otherwise remain domestically powerless.

The link between international institutions and domestic operators allows for the internalization of international laws. Given these circumstances, the implementation step of compliance becomes even more important. Indeed, scholars (Koh, 1998; Carver, 2010) suggest that there is a very small window of opportunity for international law to be successful at the domestic level and this opportunity seems to reside in the (1) willingness of states to make international laws and obligations part of the national legal or political order (the so called “domestication of international law”) (Koh, 1998; Carver, 2010), and (2) the willingness of states to respect and observe their national law (whether constitutions or ordinary laws) that are consistent with their international legal obligations.

As argued above, the implementation process has been one that has seen a consistent interaction between domestic norms and international legal standards. The presence of domestic norms, to which judges and courts can directly appeal to protect individuals’ claims most certainly facilitates and could improve the level of states’ compliance with international treaties. The occurrence of breaches of norms set by international agreements can only be counterbalanced by the adoption of measures that could bring the domestic legal system up to the international standards. It is only the presence of a legal system mirroring international obligations that can provide an effective check on the compliance of political actors. Thus, national courts and/or domestic arbitration courts are somehow empowered by the inclusions of human rights instruments into the domestic system, which in turn facilitates the overall compliance with international norms.

In addition to the ability of judges to use international laws, the incorporation of international rules empowers individuals who can rely on norms existent within their legal system. This is to say that citizens are better able, in cases of human rights violations to discuss and redress their rights in a forum that is familiar to them, rather than in front of foreign supervisory committees or international courts. It is always essential to remember that human rights violations “do not occur in high seas, or in the outer space outside the jurisdiction of any one state” (Steiner, Alston, & Goodman, 2008). The enjoyment of human rights protections must come

from within the state. This is the main reason why, for quite some time now, the nature of human rights treaties has changed dramatically; international law is not relegated to the administration of issues between sovereign states. International human rights treaties have penetrated domestic sovereignty in regulating the relationship between governments and individuals. States are identified as the principal violators of human rights and, thus, they are the focus of attention by human rights treaties. International regimes have become increasingly oriented toward the regulation of the treatment of citizens by their own government. Studies have shown that international human rights treaties tend to regulate and address issues and threats that arise from within states (Slaughter & Burke-White, 2006). Thus, more often than not these circumstances creating violations of international obligations can only be addressed by the domestic actors that have a legislative and jurisdictional power to modify them. Ultimately the relationship between international law and national law must be seen as one in which, international law seeks to shape the domestic legislation, the political institutions, and the government actions of states, and in which the national legislation is the true depositary of the instruments to promote the furtherance of international rules.

Understanding States' Willingness to Implement International Human Rights Treaties

For a long time, scholars (Wilson, 1964; Vereshchetin, 1996) have observed that "the continuing practice of referring to international law in national constitutions has not produced any one form of wording that has found general adoption" (Wilson, 1964, p. 432). The increased reference to international law standards and a rhetorical recognition of its superiority have not produced a harmonization of international law and national legislation. The reasons behind this contradictory situation of increasing "internationalization" of domestic legislation, and states' difficulties in accepting verbatim the rules of international legal instruments, resides in the fact that the implementation of international law is both a legal and political process. States that have ratified international human rights treaties and do not adapt their domestic legislation do so because they may not possess the willingness or the capacity to change their domestic legal systems, and because they may fear the consequences of implementing human rights treaties while facing some kind of threats. Typically states that do not implement human rights obligations do so because of one of the following reasons.

Firstly, there may be costs associated with the internalization of international obligations. Implementing international agreements can be a time-consuming process and result in the limitation of state sovereignty on the control of the domestic legislation. These costs are usually processed differently accordingly to the political, social, and economic structure of a state. One reason affecting the costs may be the amount of changes that states must make to their domestic legal framework to implement the international obligations. Additionally, the different regimes may have political elites that cope with the pressure of international obligations in different ways and thus may be more or less inclined to accept the international norm and/or promote its inclusion. Secondly, as I argued earlier, the implementation of international human rights laws empowers citizens, judges, and prosecutors. Consequently, these domestic actors may pressure states into following international human rights standards at all times. Ratification of international human rights may be affected by the likelihood of such system (Powell & Staton, 2009), but unless a state recognizes the direct application of international agreements in the absence of implementation, the change in domestic legislation will make the commitment to human rights more costly for member states.

These reasons indicate that the implementation of international human rights law is considered by states' members as probably more important than just ratification of the same conventions. These considerations

indicate that the decision of countries to implement international legal norms and international human rights norms is far more complex than the fact recognition that international law is important. Domestic political settings greatly affect the decision of governments to change their domestic legal provisions to pay respect to supranational rules; they affect the way that states process the costs attached to implementing human rights laws. However, the costs associated with the internalization of human rights laws are also determined by the perception of threat, which regardless of the regime type and the institutional settings, may determine whether or not states implement human rights laws.

The Implementation Requirements and Monitoring System of the Treaties Under Considerations

In this initial study about the implementation of international human rights standards I am focusing only on two of the 10 core human rights treaties currently in place. Specifically, I am examining the International Convention on Civil and Political Rights (ICCPR) and the International Convention for the Elimination of all forms of Discriminations against Women (CEDAW). The choice of the conventions for this initial study is led by the desire of looking at the protection of some of the most encompassing human rights agreements and issues, which have become particularly challenging in today globalized system. In the following of this paper, I briefly describe the implementation requirements established by the two conventions and the reporting procedures, then I examine how implementation is monitored by the international human rights committees and finally I present some preliminary results based on the data collected.

The Implementing Requirements

The two conventions under consideration have precise guidelines that establish the type of implementation required to give full effect to the agreements' provision within a domestic system. Among the different measures required to states members, all implementing provisions refer in particular to the type of legislation required to implement the agreements. Below are some of the relevant articles for the two conventions, which explicitly deal with implementation.

Article 2 of the ICCPR establishes that,

Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant⁴.

Article 2 of CEDAW establishes that: States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

⁴ The text of the Convention can be found at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination.

Reporting Procedures

As scholars (Meron, 1982; Bayefsky, 2001) have pointed out, the creation of supervisory bodies that would monitor implementation and compliance mechanisms of state parties to the treaties has become one of the major components of international human rights treaties. Human rights conventions have increasingly set up committees to monitor the implementation mechanisms by the contracting parties. These committees are considered to be international organizations in all their capacities and most of the time they perform functions of a legal character, by discharging recommendations and communications to the state parties to the agreements. Like most other human rights treaties, CEDAW and ICCPR members have created the Committees, and have given them specific mandates for the analysis of the implementation process by state parties.

The reporting procedure is very similar across all human rights committees. States becoming members to a human rights treaty must submit an “initial report” within one year of their initial membership. After this initial report, states are required to submit periodic reports. Article 40 of the ICCPR establishes that after the initial report, member states shall submit reports “whenever the Committee so requests”⁵. Article 18 of CEDAW establishes that after the initial report member states shall submit periodic reports every four years. The reports are assessed by the Committee and feedbacks are sent back to the reporting countries with complaint about violations of the conventions, recommendations, and/or requests of clarifications about the information submitted. Notwithstanding the importance of the inter-periodic reports to answer the Committees’ requests of clarifications, we focus on the reply of the Committees to the main periodic reports submitted by country members to the conventions in analyzing the type of violations committed by countries. In assessing the frequency with which countries omit to implement the conventions within their domestic legal system, we look at the reporting behavior from the year 2005 to the end of 2014. Over the 10 years period under consideration member states to the conventions analyzed have submitted 127 reports to the ICCPR Committee and 212 to the CEDAW Committee. In Appendix 1, I list the countries that have submitted reports to the Committee and the relative number of reports submitted in the period under consideration.

As a preliminary note, at this stage the study is affected by a limited amount of data because many states members to the conventions delay or neglect for considerable time to submit their reports to the Committees, thus causing the lack of answer from the monitoring institutions. While not the specific focus of this study, in attempting to answer the question as to why there are many overdue reports and very slow implementation procedures, scholars consider a wide array of factors, mostly suggesting that poor political and economic structures might hinder governments’ willingness and ability of submitting reports. Studies shows that states ranking low in economic and social development have the greatest number of overdue reports and many of which are situated in Africa (Bayefsky, 2001). Reports tend to be, particularly hard to produce for under-developed nations, a difficult and onerous process to undertake. They require the consultation and compilation of comprehensive information and the collaboration of multiple domestic political actors. Especially because of the necessity of cooperation among different domestic institutions, late reporting is usually ascribed to states that are going through a process of political transformation (e.g. democratic

⁵ ICCPR art.40 (1) (b).

transitions), which implies the presence of not well established domestic institutions in the legislative and administrative realm. Additionally, countries that are going through periods of political instability, experiencing the collapse of traditional institutions, and the presence of violent protest tend to have overdue reports. Lastly, some of the countries that comply less often with the reporting procedures lack the presence of an independent judiciary or the presence of domestic human rights organizations, which obstruct certainly the impact of human rights treaties in general and their monitoring ability.

In latest assessment of overdue reports dated 2012 the ICCPR Committee there were 29 initial reports that were overdue, 19 of which were overdue for more than five years, which resulted in the inability of the Committee to monitor adequately state behavior with regard to the implementation of the convention⁶. The CEDAW Committee also reported in its 2013 annual report that the number of “overdue reports is an alarming sign of [a] dysfunctional situation”.⁷ At this stage it is particularly important to take under consideration the number of overdue reports because I do not want to suggest that the countries which do not appear in the monitoring committees’ reports are implementing human rights legislation. I am very aware that there is a considerable autocorrelation between the monitoring committees reported violations and the number of reports submitted by member states. The best way to proceed in this case is to perform a thorough analysis of the domestic systems of member states to assess whether or not the national legislation has been aligned with the international provisions. This is part of a larger project currently in progress.

Preliminary Results

I examined the monitoring committees’ response doing a textual analysis of the annual reports published by the ICCPR and CEDAW Committees and I categorized the different types of violations of implementation requirements. As mentioned above, in the period which goes from 2005 to 2014 the ICCPR and CEDAW Committees have received respectively 127 and 212 reports. Of the reports submitted, the ICCPR Committee has analyzed 108 states parties’ reports and the CEDAW Committee has analyzed 234 reports. The reason why the CEDAW Committee has analyzed more reports than those submitted is due to its reports backlog, which has forced the Committee to look at reports that were deposited prior 2005.

From the evidence collected through the textual analysis of the Annual Reports and Final Recommendations of the Committees, I found that the ICCPR Committee reported 166 instances of lack of implementation by the countries whose reports were examined over the period of time under examination. The CEDAW Committee reported 415 implementing violations of the Convention.

Although the number of the implementing violations is particularly high, the most troubling fact is the type of legislation that has not been implemented by states. I grouped the three most reported complaints based on the specific legislation lacking at the domestic level. The CEDAW committee has reported 92 times and for 92 different member states that the domestic legislation was lacking a definition of gender discrimination, which was in line with the Convention requirement. Being one of the core objectives of the CEDAW Convention the elimination of all forms of discrimination against women, which the Convention defines as

⁶ Report of the Human Rights Committee, Vol. I, 103rd session (17 October-4 November 2011) to 104th session (12-30 March 2012)

<http://tbinternet.ohchr.org/layouts/treatybodyexternal/Download.aspx?symbolno=A%2f67%2f40%2fVOL.I&Lang=en>

⁷ Report of the Committee on the Elimination of Discrimination against Women, 49th session (11-29 July 2011), 50th session (3-21 October 2011), 51st session (13 February-2 March 2012)
<http://tbinternet.ohchr.org/layouts/treatybodyexternal/Download.aspx?symbolno=A%2f68%2f38&Lang=en>

“any distinction, exclusion, or restriction made based on sex”, the qualification of what entails discrimination within a national legal system is propaedeutic to the correct working of the Convention as a whole. The other three most reported violations of domestic legislations are the absence of a comprehensive legislation on violence against women, reported 74 times; the absence of anti-trafficking legislation reported 52 times, and the absence of labor legislation which allows women equal opportunities and salaries as men, reported 48 times.

The complaints about absent legislation reported by the ICCPR Committee do not revolve as consistently as those reported by the CEDAW Committee around the same issues. First and foremost, the most reported violation in terms of lacking legislation pertains to the absence of a comprehensive legal framework on violence against women, reported 21 times. Violations of implementing legislation of the pre-trial detention and conditions of detention requirements are reported 14 times, followed by the definition of terrorism and terrorist acts as basis to enact a state of emergency, reported 9 times, and the definition of torture reported 10 times. Generally speaking, the major concerns of the ICCPR Committee tend to affect groups in society that are particularly vulnerable (women and detainees) or examining circumstances that can legitimize the state into violating some of the rights guarantee by the Convention (such as the recognition of the state of emergency).

This preliminary analysis suggests that the legislation absent from the domestic legislation affects some of the core objectives of the international human rights treaties under investigation. In a previous study on reservations to international treaties it has been suggested that reservations may be a way for states to signal true commitment to the international obligations by openly discarding the application of a section of the treaty (Meernik & Aloisi, 2009). Lack of implementation may just be a “covert” behavior of states to avoid full commitment. After all, in the aftermath of ratification the attention to state behavior tends to diminish and, unless of blatant violations of human rights, the implementation of international laws does not fall under the scrutiny of the larger international community.

Conclusion

This initial assessment of the reports, number and type of implementing violations reported by the Committees aims at identifying the quality of state commitment to human rights treaties. For some time the study of human rights treaties has been focusing on ratification, reservations to treaties, and then violations of the human rights protected by the treaties. However, it is considerably important to fill the space between ratification and compliance and empowering the international obligations with domestic remedies, laws, and policies that could heighten the impact of legal instruments, whose power resides in the willingness of governments to respect them and in the ability of individuals to appeal to their rules domestically. Ultimately the domestic violations of internationally recognized human rights might be the consequence of lacking domestic legislation which aligns the domestic legal system to the international agreements requirements. The lack of definitions such as that of gender discrimination, lack of explanation of what torture is, lack of details on gender equality and corresponding protections are the reasons why the international monitoring committees shine the spotlight on countries.

While the same textual analysis of Committees’ reports is under way for the other core human rights treaties, I believe that it is particularly important to acquire a more robust measure of implementation that does not only look at the reports but at the actual changes made in the domestic legislation, as well as the use of the domestic laws concerning internationally protected human rights standards by domestic judges and courts. Count of state actions and policies and an analysis of the domestic laws pertaining international human rights

agreements should provide a better and deeper understanding of states' normative commitment to international human rights law.

I also believe that some of the violations reported by the monitoring committees are correlated with one another. In particular, it is necessary to investigate further whether indeed there is a correlation between the lack of legislation and the other types of violations that occur in a given country. This aspect is of particular importance; indeed the main concern in terms of human rights is to understand how to strengthen the impact of international agreements and whether or not the presence or absence of domestic legislation makes a difference in the compliance of states with international human rights obligations.

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Appendix 1⁸

ICCPR Data

Total number of reports submitted from countries 2005-2014 = 127

List of Countries with no Reports. Afghanistan, Albania, Andorra, Bahamas, Bangladesh, Belarus, Belize, Bhutan, Burkina Faso, Cabo Verde, Congo, Democratic People's Republic of Korea, Dominica, Egypt, Equatorial Guinea, Eritrea, Gabon, Gambia, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, India, Indonesia, Italy, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Liechtenstein, Luxembourg, Malawi, Mali, Morocco, Mozambique, Namibia, Nepal, Niger, Nigeria, Pakistan, Papua New Guinea, Romania, Slovenia, Somalia, South Africa, State of Palestine, Swaziland, Syrian Arab Republic, Thailand, Timor Leste, Trinidad and Tobago, Uganda, Vanuatu, Venezuela, Viet Nam, Zimbabwe.

List of Countries with one Report. Algeria, Angola, Argentina, Armenia, Australia, Azerbaijan, Barbados, Belgium, Benin, Botswana, Brazil, Bulgaria, Burundi, Cambodia, Cameroon, Canada, CAR, Colombia, Costa Rica, Cote d'Ivoire, Cyprus, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, El Salvador, Estonia, Ethiopia, Finland, Germany, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, Iran, Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Latvia, Libya, Lithuania, Madagascar, Maldives, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Montenegro, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Moldova, Rwanda, San Marino, Serbia, Sierra Leone, Slovakia, Sri Lanka, Suriname, Sweden, Switzerland, Togo, Tunisia, Turkey, Turkmenistan, United Republic of Tanzania, United States of America, Uruguay, Uzbekistan, Yemen, Zambia.

List of countries with two Reports. Austria, Bolivia, Bosnia and Herzegovina, Chad, Chile, Croatia, Czech Republic, France, Georgia, Ireland, Israel, Japan, Republic of Korea, Russia Federation, Spain, Sudan, Tajikistan, The former Yugoslav Republic of Macedonia, Ukraine, United Kingdom of Great Britain and Northern Ireland.

CEDAW Data

Total number of reports submitted from countries 2005-2014 = 212

List of Countries with no Reports. Antigua and Barbuda, Barbados, CAR, Democratic Republic of Korea, Finland, Iran, Ireland, Kiribati, Latvia, Libya, Marshall Islands, Micronesia, Monaco, Nauru, Peru, Philippines, Romania, Saint Kitts and Nevis, San Marino, Sao Tome Principe, South Sudan, State of Palestine, Swaziland, Thailand, Trinidad and Tobago, Tunisia, Venezuela, Zambia.

List of Countries with One Report. Afghanistan, Albania, Algeria, Angola, Andorra, Argentina, Armenia, Australia, Austria, Bangladesh, Belarus, Belgium, Belize, Benin, Bhutan, Botswana, Brunei, Darussalam, Bulgaria, Burkina Faso, Burundi, Cabo Verde, Cambodia, Canada, Chad.

Chile, Comoros, Congo, Cook Islands, Costa Rica, Cote d'Ivoire, Croatia, Cyprus, Democratic Republic of Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Gabon, Gambia, Georgia, Germany, Ghana, Grenada, Guatemala, Guinea Bissau, Guyana, Honduras, Iceland, Iraq, Italy, Jamaica, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lesotho, Liberia, Liechtenstein, Luxembourg, Maldives, Malta, Mauritania, Montenegro, Morocco, Mozambique, Myanmar, Nepal, Nicaragua, Niger.

Nigeria, Oman, Panama, Papua New Guinea, Paraguay, Poland, Qatar, Republic of Moldova, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Senegal, Seychelles, Singapore, Slovakia, Solomon Islands, South Africa, Sri Lanka, Suriname, Switzerland, Syrian Arab Republic, The Former Republic of Macedonia, Timor-Leste, Togo, Turkmenistan, Tuvalu, Uganda, Ukraine, Uruguay, Yemen, Zimbabwe.

⁸ Data source United Nations Human Rights Office of the High Commissioner of Human Rights
<http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>

List of Countries with Two Reports. Bahamas, Bahrain, Bolivia, Bosnia and Herzegovina, Brazil, Cameroon, Colombia, Cuba, Czech Republic, France, Greece, Haiti, Hungary, Indonesia, Israel, Japan, Jordan, Kazakhstan, Kenya, Lebanon, Lithuania, Madagascar, Malawi, Mauritius, Mexico, Mongolia, Namibia, New Zealand, Norway, Pakistan, Republic of Korea, Serbia, Sierra Leone, Slovenia, Spain, Sweden, Tajikistan, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uzbekistan, Vanuatu, Viet Nam.

List of Countries with Three Reports. Azerbaijan, China, India, Netherlands, Portugal.