



Norwegian University of Life Sciences
Faculty
of
Department
of

Master Thesis 2015
30 credits

Comparing CRC Compliance: The Committee on the Rights of the Child Periodic Reviews of Norway and Russia

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Declaration

I, Håkon Heidum-Ziegler, declare that this thesis is a result of my research investigations and findings. Sources of information other than my own have been acknowledged and a reference list has been appended. This work has not been previously submitted to any other university for award of any type of academic degree.

Signature.....

Date.....

Acknowledgements

I would like to use this opportunity to thank my supervisor, Esben Leifsen, for his honest and useful feedback, even when completion seemed unlikely.

I would also like to thank my brother, Joakim for providing perspective in the midst of self doubt and despair.

Most of all, I would like to thank Martine. Without you I would never have dared to venture back out in the world of higher learning. You are always supportive, you are always honest and you keep astounding me with your wisdom. But most of all you make me believe in myself. Thank you.

Last but not least, I would like to thank my dog, Tussi who has been a dear companion in this process.

Drammen, 14.05.2015
Håkon Heidum-Ziegler

Abstract

A comparative analysis of the Committee on the Rights of the Child fourth periodic reviews of Norway and the combined third and fourth periodic review of Russia. Content analysis was used as a tool for the treatment of the texts concerning four categories: 1) independent monitoring; 2) violence against children; 3) abuse and neglect; and 4) sexual exploitation and abuse. The results were then compared with the context provided by other sources covering the subject. The comparison found that the Committee on the Rights of the Child manages to communicate the level of severity and magnitude of the issues it comments, with the exception of category 3. The thesis ends with an argument for the usefulness of the analysis in order to understand how the Committee contributes to strengthened CRC compliance

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Part I: Method, Theory and Context

1.0 Introduction

Every member of the Convention on the rights of the Child undergoes periodic reviews where their compliance performance is assessed by the Committee of the Rights of the Child.¹ These reviews are based on reports sent in by the respective state party, information by non-state actors and a dialogue between The Committee and the state party. The reviews result in a document titled “Concluding Observations” where the Committee makes comments on the compliance of the respective state party and offer recommendations for further compliance. All the member states undergo the same procedure and are assessed based on the same set of rules, yet the political, social and material contexts differ greatly in these countries. One of the challenges faced by the Committee is to reflect these differences in their concluding observations.

In this thesis I attempt to determine if and how the Committee manages to contextualise the severity and magnitude of the issues it comments in their concluding observations

1.1 Topic and Problem Statement

The enhancement of global child rights has increasingly been an essential part of the UN since the end of the Cold War. The Convention on the Rights of the Child (CRC) quickly became the most signed human rights treaty following the adoption of UN General Assembly on 20 November 1989 (UN, 1989). Signing and ratifying such a document does not, however, equate to its signatories complying to it fully. The global implementation of the CRC is far from completed and is a constant process. The role of the UN is to drive this process. To ensure that member states abide by their commitments the UN has developed mechanisms to review states’ compliance to the CRC and to encourage them to strengthen efforts to ensure the rights of the child both legally and in practice (Smith, 2008).

The Norwegian Law Professor Lucy Smith concludes her chapter about the CRC (2008) by emphasizing the importance of the Convention. Despite violations of the rights of

¹ The Convention on the Rights of the Child will in this paper be referred to as “CRC” and “the Convention”, as well as by its full name. The Committee on the Rights of the Child will be referred to as “the Committee”

millions of children are being committed every day in the most terrible manners all over the world Smith states that there should be no difficulty in documenting the impact the CRC has had. Of its greatest accomplishments, Smith continues, the CRC has put children's right on the agenda, not only in the UN, but also in states all across the world, many of whom have incorporated the Convention into domestic law. Furthermore, the CRC has provided non-governmental organisations (NGOs) with a tool in their work with various governments, it has created a common platform of cooperation and dialogue between states and organisations, and it has given children a chance for their voices to be heard in matters concerning them (Smith, 2008).

This thesis is based largely on the topic raised by Cecilie Neumann in her article published in the fourth volume of *Internasjonal politikk* in 2014 titled "The child who disappeared: Social blindness in the UN's work with children" ("Barnet som forsvant: Sosial blindhet i FNs barnarbeid"). In it she criticizes the texts written by the Committee on the Rights of the Child in their review of states' compliance to the Convention. She argues that the texts reveal striking disparities between the criticisms directed towards the different states and the considerations taken to the political, social and material circumstances in the respective countries. She builds this argument on an analysis of comments and recommendations made by the Committee in their reviews of Norway and Uganda. The relative placing of states concerning national legislation and practices in the protection of children should, in Neumann's opinion, be reflected by the comments and recommendations to the respective countries. By misrepresenting the gap between countries the Committee may contribute to mechanisms that make issues bigger in states like Norway and smaller in states like Uganda, effectively homogenizing the living conditions of children in these countries (Neumann, 2014).

In this thesis I will analyse the concluding remarks made by the Committee on the Rights of the Child in the periodic review of two countries, Norway and Russia. The research question is:

- Does the Committee on the Rights of the Child contextualise the severity and magnitude of the issues it comments in their concluding observations, and if so, how?

1.2 Literature

In this study I have used Committee's concluding observations for the fourth review cycle of Norway and the concluding observations for the combined third and fourth review of the Russian Federation as sources of analysis. The sources for the contextual background are UN documents concerning the CRC and the Committee, journal articles and books.

1.3 Thesis structure

This thesis is divided in two main parts. In the first part I outline the conceptual framework and explain the method used. Lastly I offer a contextual framework where CRC, the Committee and the review mechanisms are introduced. I then offer a contextual background of the rights of the child concerning independent monitoring and violence against children in Norway and Russia. In the second part I present the analysis of the texts I have examined. Lastly I discuss the analysis in combination with the contextual background and in light of the theoretical framework, ending with the conclusion that the Committee manages to contextualise the severity and magnitude of the issues it comments in its concluding observations to a varying degree.

2.0 Method and Conceptualization

2.1 Introduction

For the reader to understand what the author means certain, central terms need to be conceptualized (Berg & Lune, 2014). By offering a definition or explanation of how a term or a concept is to be understood in this paper I hope to reduce any confusion on the part of the reader.

Likewise, a methods chapter is necessary in order to provide the reader with an account of how the researcher proceeded in answering the research question. Methods and research design acts as a systematic guide for the researcher when gathering and analysing data. The design best suited for a specific research depends on what the researcher wants to find out. It is therefore important to make an informed decision when choosing methods (Berg & Lune, 2014). I will in this chapter present the methods

chosen in order to answer the research question, and I will discuss its strengths and weaknesses.

The major divide in social science research is between qualitative and quantitative research. Qualitative research is useful if the researcher is looking to find the essence of few units and when the goal is to find meanings that cannot be quantified. This allows for in depth research of a selected number of units. The numbers of units are often too low to make generalizations due to the labour intensive nature of qualitative research. Besides, some qualitative data are often unquantifiable, such as symbolism, meaning, and understandings that require the subjective consideration of the observer. Quantitative research is better suited at finding correlations among larger number of units, subsequently making generalizations more probable (Berg & Lune, 2014).

With this study I wanted to examine how the Committee on the Rights of the Child contextualise the severity and magnitude of the issues it comments in their concluding observations. The approach I chose to determine this was by analysing comments and recommendations concerning similar issues directed at two different countries, using an content analysis as a tool for the treatment of the texts, and then compare these with the context provided by other sources covering the subject. My goal was to interpret the meaning from information from a large number of variables, but with only two units, and then comparing these I found qualitative method and comparative method to be relevant approaches

2.2 Conceptual Framework

The *rights of the child* is a central term in this paper. By choosing singular form and avoiding the less cumbersome *children's rights* I follow the implicit message communicated from the name of the convention. The singular form indicates a view of the child as a legal subject with individual rights as opposed to a more collective view where the child has certain responsibilities as a part of a group (AU, 1990; Neumann, 2014). This notion has a conceptual history tracing back to Augustine and Locke, who argued that children have the same moral rights as any person, but the child's limited mental faculties made it necessary for parents to control him or her (Watson, 2006). However, the notion did not become predominant until the second half of the twentieth

century. It is largely based on a view of the child built on a perspective of developmental theory, where the child gradually matures in stages with its environment affecting the cognitive development (Daiute, 2008; Jerlang, 1999). This has predominantly been a Western view and its dominance in the CRC has been criticized for not being culture relative and taking into consideration alternative views on children (Daiute, 2008; Harris-Short, 2003; Watson, 2006). The dominance of the view of one cultural sphere is a result of the dynamics of treaty making processes within the UN, something that will be explained closer in this paper in the contextual background section concerning the CRC.

The meaning of the term *commitment* is in this paper borrowed from Risse, Ropp, and Sikkink (2013): “[A]ctors accept international human rights as valid and binding for themselves” (Risse et al., 2013: 9). The actors referred to are states and the way they commit is by signing, and most of all, ratifying international human rights treaties. Used in connection with commitment, in this paper, is the term *compliance*, with its meaning borrowed from the same source as commitment: “[S]ustained behaviour and domestic practices that conform to the international human rights norms” (Risse et al., 2013: 9). By differentiating the meanings of the terms *commitment* and *compliance* I emphasize that the ratification of human rights agreements does not automatically bring change in how states behave concerning domestic human rights. Examining the Convention certainly reveals this. As the most popular human rights treaty (Risse & Ropp, 2013), certainly in terms of number of countries that have signed and/or ratified it, there still is a long way to go for many countries before they can be described as compliant. This reveals in effect a gap between words and deeds, referred to as the “compliance gap”. Xinyuan Dai explains it like this:

One way to think about the compliance gap may be to contrast states’ formal commitment to a specific treaty with their subsequent compliance. The compliance gap emerges whenever countries commit to an international human rights but their subsequent behaviour falls short of the standards embodied in the agreement.

(Dai, 2013: 88)

Violence against children is a term that can be interpreted in different ways. What

constitutes as violence is not the same to everyone and therefore needs to be defined for the use in this paper. The term is to be understood as covering “all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse” (UN General Assembly, 1989: art. 19). The Committee emphasize that violence is not only physical harm and intentional harm, but also non-physical and non-intentional psychological harm, such as psychological maltreatment and neglect (Committee on the Rights of the Child, 2011). The use of violence as a tool in child rearing is also considered as violence. Spanking and smacking, however light is considered to be an act of violence when it is used as a form of punishment and therefore represent an intentional act to inflict harm and/or be degrading to the child. This is further clarified in the Committee’s general comment no.8:

The Committee defines “corporal” or “physical” punishment as any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. Most involves hitting (“smacking”, “slapping”, “spanking”) children, with the hand or with an implement - a whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion (for example, washing children’s mouths out with soap or forcing them to swallow hot spices). In the view of the Committee, corporal punishment is invariably degrading. In addition, there are other non-physical forms of punishment that are also cruel and degrading and thus incompatible with the Convention. These include, for example, punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child.

(Committee on the Rights of the Child, 2007: point 11)

The research question includes the terms *severity* and *magnitude*. In this paper these terms are used to describe the nature and scale of issues concerning the rights of the child in the respective countries. Severity refers to the shortcomings of a state in their efforts to protect the rights of the child. It is not meant as a precise measuring scale, but rather as a term used in comparing and determining one situation as less severe than the other. Magnitude refers to the scale or frequency to a state’s non-compliance concerning an issue. It could, for example be used to describe differences in a country

where there are a small number of reports concerning police brutality against children with a country where the police brutality is reported to be systematic.

2.3 Comparative Study

Arend Lijphart became one of the central contributors to the development of comparative method through a number of contributions in the 1970's. In his article *Comparative politics and the comparative method* Lijphart (1971) assesses the comparative method in relation to the experimental, statistical, and case-study methods. Lijphart describes the comparative method as an analysis of a small number of cases, two being the minimum in order to make comparison possible, but too few for conventional statistical analysis to be utilized (Lijphart, 1971). He considered that comparative method could provide a stronger basis for evaluating hypothesis than case-studies, but not as strongly as statistical or experimental research. However, for studies with limited resources it is a good alternative and might serve as an initial research before launching larger statistical analyses.

As with any method, there are weaknesses to the comparative method one need to be aware of. There is the problem of a relatively high number of variables and a low number of units or cases. Lijphart (1971) called this dilemma "many variables, small N", alluding to the statistical term N, which stands for population size. From a viewpoint of statistical analysis this situation will make it harder to use control variables in order to find correlations between the dependent and independent variables, and it makes the research vulnerable to deviations, more easily absorbed in statistical analyses with greater numbers of units. One should therefore be careful of discarding any hypothesis fully based on research using comparative method (Lijphart, 1971).

To combat the problem of "many variables, small N" Lijphart (1971) suggests four strategies. The first is to increase the number of units in the study as much as possible. This strategy is counter intuitive if comparative method is to be considered as an independent scientific method. The idea of increasing units seems to be a way of striving to reach certain criteria in order to resemble statistical research. Lijphart acknowledged this in a later article (Lijphart, 1975) Increasing cases was not a viable option in the case

of my research due to resource limitations. Each case would demand of me to cover the same amount of material.

The three next strategies are closely linked and concern the design of variables. The second strategy is to reduce or merge independent variables in the analysis, third to focus on comparable units, and fourth to focus on a few key variables (Lijphart, 1971). A natural consequence of the third strategy is that focus on comparable units most likely works against the first strategy of increasing the number of units; they can therefore not be combined. Both can, however, be combined with strategies two and four.

As the first strategy was not viable for my research, I focused on the third strategy. In addition to my personal interest to compare the two countries, as previously mentioned, following the third strategy I chose Norway and Russia as comparable units because they are two states with a similar normative framework when it comes to committing to the rights of the child through international conventions. Most importantly both have ratified the CRC and are committed to the UN Human Rights review mechanisms, in particular the periodical review by the Committee on the Rights of the Child. Where the commitment is similar, the compliance of the two countries differs (Humamium, 2015). Following the fourth strategy I therefore chose to focus on a few key variables. These categories were child rights issues both countries had made commitments to, but where the degree of compliance differed.

2.4 Document analysis

The documents I have analysed for this research are UN sources made public to anyone through their websites. The main documents are the Committee's concluding observations from the fourth periodic review of Norway and the combined fourth and fifth review of the Russian Federation (Committee on the Rights of the Child, 2010, 2014). For the purpose of social research these texts can be considered as non-reactive. The authors of the texts are not aware that their work is being researched; consequently their representations are not affected by the knowledge of a research being conducted (Berg & Lune, 2014). That does not mean that the documents should be treated as documentations of reality. They are the assessment of an organizational body

representing their own interpretations of a treaty. In fact, how the Committee expresses their assessments is central to the analysis.

For the first part of the analysis I used a content analytic method. Content analysis as explained by Berg and Lune (2014) “is a careful, detailed, systematic examination and interpretation of a particular body of material in an effort to identify patterns, themes, biases and meanings” (Berg & Lune, 2014: 335). Following this I identified significant words, categorized them and registered their frequency distribution. The words identified were ones where the Committee communicate negative, neutral or positive views about the development within a specific issue. The words were categorized in those three categories. Then by looking at the frequency distribution I got an indication to how the Committee assessed the severity and magnitude of the issues for the respective countries.² As a consequence of the limitation within content analysis this only gives an indication, as the mere frequency of occurrence of words does not necessarily reflect the nature of the context (Berg & Lune, 2014). I therefore compared the results with the national contexts of the respective countries based on other sources.

2.5 Reflections on Research Criteria in Qualitative Research

In this section of the paper I have tried to offer an account of the methods I have used in order to answer the research question. The rigor applied to the content analysis tool ensures a degree of reliability. The categorizing of the defined textual elements ensures that the distribution frequency makes it replicable. Even though the concluding observation follows a template set for the purpose, the generalizability, or transferability, which is an important element of the external validity, is quite low. Thus this research encountered the problem with the small N (Collier, 1993; Lijphart, 1971). Another challenge with this research is that it relies on few methods of collecting data. By including more methods and sources for acquiring data the triangulation would have strengthened the internal validity of this research (Berg & Lune, 2014).

3.0 Theoretical Framework

² The procedure is explained to more detail in the introduction of the analysis section of this paper.

3.1 The “Spiral Model”

A challenge with human rights agreements is that they are in general “weak” institutions compared to international agreement in other areas. Dai (2013) contrasts human rights institutions with the International Monetary Fund (IMF) and the World Trade Organization (WTO), two international institutions with the powers to place conditions on members and that have mechanisms to solve disputes. Members of the CRC do not risk being subjected to sanctions in the case of non-compliance. Of the determining factors for why certain types of international institutions are more powerful by design are the beneficiaries of compliance and how they are related to government. Non-compliance within security regimes may affect other states, while non-state actors, such as commercial companies are affected within trade organizations. In human rights institutions non-state actors within the same state are the beneficiaries of compliance. The main trend is that strong international institutions with large resources and with instruments to carry out enforcements are institutions where it is in the states interest that compliance is enforced, such as in a security or trade regime. Since human rights institutions target governments and the beneficiaries of compliance are domestic actors there are few incentives for states to want the institution to have power to enforce compliance. A provision of enforcement by a human rights institution will potentially act as a deterrent for states to join (Dai, 2013). This could potentially lead to repressive state with bad human rights records to opt out of the agreements. As a consequence human rights institutions remain weak in order to get a foot in the door where human rights change is most needed.

The relative weakness of international human rights institutions generates a need for other channels for the promotion of compliance in states’ domestic behaviour. Such channels are presented the book *The Power of Human Rights* (Risse, Sikkink, & Ropp, 1999) by social constructivists Thomas Risse and Kathryn Sikkink and Stephen C. Ropp. Based on country case studies of change in state human rights practices the authors developed a theory called the “spiral model” of human rights change. It is used as a tool to present causal arguments about the effects of transnational advocacy networks in promoting human rights norms and influencing states that violate human rights to change their behaviour domestically. In a process of socialization, norm-violating states will go through the stages of repression, denial, tactical concession, prescriptive status

and rule-consistent behaviour.

The network of advocacy groups applying pressure on norm-violating states is composed of international and domestic NGOs working for human rights. They are loosely connected to IOs, such as the UN, as well as national governments. The different participants within the network share a collective understanding of human rights norms. By the use of such a network there can be placed great pressure on norm-violating states. Not only raising awareness, “shaming” and “naming”, or demanding changes from the violating state, but also enforce sanctions. The advocacy networks serve three purposes: Putting norm-violation on the international agenda, supporting and empowering domestic opposition groups in their claims toward the norm-violating government, and creating a transnational structure to pressure the norm-violating state. The longer pressure can be sustained the bigger the chance of change (Risse et al., 1999).

Such coordinated pressure can create a situation where a norm-violating state may go from the denial phase to the tactical concession phase. As the term implies the norm-violating state make certain concessions to ease the pressure from the network. Unless there is sustained pressure at this point the norm-violating state is likely to fall back into its old ways. If pressure is sustained the likelihood of the norm-violating state to “internalize” and “habitualize” behaviour consistent with human rights norms and enter the two last phases increases (Risse et al., 1999). A state signing or ratifying international human rights agreement often constitutes a tactical concession or prescriptive status (stages three and four respectively). But the way onwards to rule-consistent behaviour is not self-evident. The model does not assume evolutionary progress, as states are likely to go back and forth in the process. Risse et al. (1999) emphasizes the importance of sustained pressure to ensure change in domestic behaviour of norm-violating states. Although states can apply pressure where it hurts by enforcing sanctions, it is through the persistence of organizations and advocacy networks that they are led to do so.

The model originally assumed that all states are capable of complying with HR norms as long as they have the will. That assumption is debated in the follow-up book, *The Persistent Power of Human Rights* (Risse et al., 2013), where the authors nuance the

concept by emphasizing that a state's willingness to comply does not necessarily mean that all areas within that country will comply to HR norms. This is due to the fact that there are *areas of limited statehood* (Risse et al., 2013: 63) within certain states. These areas of limited statehood are places, sectors or groups where the state government is incapable of enforcing rules and regulations, not because it is unwilling to do so, but because it for some reason lacks the capacity (Risse et al., 2013). The phenomenon is not limited to failing or failed states, but can be found in most developing countries in the world. The violators in areas of limited statehood varies from state actors not controlled by central authorities, like the police or military, or by non-state actors, like criminal organizations, private militias or national and multinational companies (MNCs) (Risse, 2013).

As a weak international human rights institution the CRC relies on channels of indirect influence. The role of non-state actors is essential in order to make states change their domestic behaviour to comply with the rights of the child. The non-state actors are usually NGOs, groups and individuals who stand to benefit from state compliance. This incentive will lead them to use whatever measures are available at their disposal, including weak human rights institutions. The domestic pro-compliance stakeholders also rely on international institutions to provide them with support in countries where there is little protection. That the indirect channels of influence is important to both the international human rights institutions and to the domestic stakeholders reveals an existing co-dependency between the two. By identifying and recognizing compliance gaps the Committee "provides decentralized enforcers with the normative and/or material tools they need in order to persuade and/or pressure governments to improve their behaviour or policy in line with their commitments" (Dai, 2013: 99). In the case of the rights of the child these decentralized pressure groups will utilize the Convention to remind states of their commitment and further reiterate the comments and recommendations by the Committee to emphasize states' compliance gap. Given the right circumstances such pressure can influence domestic policy and practices. Those circumstances are determined by the relative strength of the pro-compliance advocates within the country and the type of government, as the influence on policy of advocacy group are likely to be stronger in liberal democracies than in repressive states (Dai, 2013). It is important to bear in mind that this view presents government as

consolidated, homogenous units that march to the beat of the same drum. This is rarely the case as conflicting interests are sure to arise among and within departments of government. Contemporary Norwegian examples of this are the issues where upholding political promises to conduct strict policies concerning immigration are in conflict with commitments to human rights. These kinds of dynamics might have influence on the behaviour of a state concerning its compliance.

4.0 Contextual background

4.1 Introduction

The intention of this section is to establish an understanding of the actors and mechanisms involved in this paper. This will provide the contextual background necessary to, later in the paper, conduct the comparison with the analysis of the documents examined. This section contains background information on the Convention on the Rights of the Child, how it came to be and its intended purpose; the Committee on the Rights of the Child and how it functions; reporting to the committee, state's obligations to report as well as the reporting of other actors; and finally the situation of the rights of the child in Norway and Russia, particularly concerning the issues that are to be analysed.

4.2 The Convention on the Right of the Child

The Convention on the Rights of the Child is the foremost global human rights document concerning children. It was adopted on 20 November 1989 and entered into force on 2 September 1990 (UN, 1989). The preamble of the CRC states that "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth" (UN, 1989). Although previous declarations and conventions concerning human rights involved rights for children as human beings the CRC emphasized the special position of children and concentrated their specific rights in a single document in a way that had not been done before. Since the CRC is a convention and not a declaration entails that it is legally binding to those who ratify it. It has achieved near-universal ratification, the only exceptions being the United States of America, Somalia, and South Sudan, the two former have signed the Convention, but not ratified it, the latter has taken no action (OHCHR, 2015). The popularity of the Convention gives it extra strength legally, politically, and

morally. The fact that almost all states have ratified the CRC indicates that strengthening children's rights is far less controversial politically than many other subjects within the UN (Smith, 2008).

The extraordinary high ratification leaves an impression of "universality" to the agreement, a point that seems surprising given the fact that the CRC represent an intrusion into family life. This is by most cultures considered a very private sphere and is the main bearer of cultural values and tradition (Harris-Short, 2003; Smith, 2008). The way the CRC manages to transcend cultural differences and achieve agreement is stated in article 52 of the CRC: "A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations" (UN, 1989). This effectively offers states the option to make reservations or declarations concerning parts of the convention. This option is used by many Muslim states and is often manifested in what Sonia Harris-Short refers to as *blanket reservations* (Harris-Short, 2003: 135), meaning that they are very broad in nature and provides the state the opportunity to disregard the convention as it may see fit. Some reservations are so broad that there is no doubt that they are in violation of the provisions given in article 52. An example of such a blanket reservation is the one made by Saudi Arabia, which makes "reservations with respect to all such articles as are in conflict with the provisions of Islamic law" (UN, 2015). The Committee on the Rights of the Child encourages all states to repeal their reservations, but the Committee respects reservations if it considers them to be valid (Smith, 2008). Neither Norway, nor Russia has made any reservations.

The Committee on the Rights of the Child highlights four articles in Convention that represents general principles for the convention as a whole (Committee on the Rights of the Child, 2003). These are:

- Article 2: the obligation of States to respect and ensure the rights set forth in the Convention to each child within their jurisdiction without discrimination of any kind.
- Article 3 (1): the best interests of the child as a primary consideration in all actions concerning children.
- Article 6: the child's inherent right to life and States parties' obligation to ensure to the maximum extent possible the survival and development of the child.
- Article 12: the child's right to express his or her views freely in "all matters affecting the

child”, those views being given due weight.

(Committee on the Rights of the Child, 2003)

These principles are to be understood as overarching when interpreting other articles in the Convention; all articles are to be interpreted bearing in mind the child’s right to care and protection and its right to participate and have its voice heard in matters concerning it (UNICEF, 2007a). However, the terms used in these articles, like “the best interest of the child” and “the development of the child” are subject to interpretation (Smith, 2008), something that reflects the context and the conditions under which the Convention was made, but also causes discussions about its intended implementation and use. As a measure to reduce uncertainties concerning interpretations the Committee issues documents called *general comments*, which are meant to assist the state parties in interpreting the articles and fulfilling their commitments to the CRC.³

The work to form what was to become the Convention on the Rights of the Child began following a Polish initiative in 1978. They envisioned a legally binding international document consolidating the rights of the child. In the following year the Commission on Human Rights put together a Working Group with the intention of delivering a document at the end of the year. Since 1979 had been named the “International Year of the Child” the convention would have provided a climax. However, it would take another ten years before the convention was finalised (Smith, 2008). The composition of the Working Group included all 43 member nations of the Commission on Human Rights, UN organizations like UNICEF and different NGOs (Neumann, 2014). The work on the convention was slow the first years, so in the mid-eighties a tentative deadline for completion was set for 1989 (Neumann, 2014).

The deadline gradually changed from being interpreted as tentative to absolute, which contributed to the hampering of essential dynamics in the creational process, such as the goal of reaching consensus through open discussions, which is customary within the UN. In this situation the composition of the Working Group were to affect the final outcome. The composition of a national delegation in the different UN processes usually reflect

³ See 4.3 for further explanation on general comments.

the stakes a country have concerning the matters discussed, but also the resources a state is able to put into the process. Developed and rich countries have greater numbers of representatives and can afford to allocate these to certain matters, while developing and poorer countries may have limited numbers of representatives, who have to attend to several unrelated matters. States with greater resources therefore have an advantage over states with fewer resources (Harris-Short, 2003; Merry, 2005). Thus the views of the “strongest” participants in the Working Group prevailed, while the views of the “weaker” parties were dismissed (Neumann, 2014).

The CRC was conceived at a time where views on the child were changing. Views on the child gradually changed from the notion where children were viewed as defenceless victims and the property of their parents to one where children were seen as developing independent individuals. Within the framework of this new view was the notion that children were in need of special judicial protection because of its fragility and dependence on its caregivers. This new view was largely based on Piaget’s works within the cognitive development of humans (Neumann, 2014). Piaget arranged the cognitive development of the child in four stages:

1. Sensorimotor stage with six substages (0- ca. 2 years)
2. Preoperational stage with two substages (ca. 2-6/7 years)
3. Concrete operational stage (ca. 6/7-11/12 years)
4. Formal operational stage (ca. 11/12-15 years)

(Jerlang, 1999: 275)

Not all children finish all the stages. The cognitive development can be impaired due to a number of reasons: congenital defects, brain damage caused by an accident, or by social and cultural reasons. Piaget emphasised that the qualitative social and pedagogical interaction with the child is important for the development. With the latter reason of impairment Piaget differentiates between the efforts and expectations put into the cognitive development by different cultures and societies (Jerlang, 1999). This new view won ground in the forming of the convention, as its proponents were primarily North American, and Western and Northern European states with the resources to ensure the

dominance of their opinions in the convention (Daiute, 2008; Harris-Short, 2003; Pollis, 1996; Smith, 2008; Stephens, 1995).

The dominance of Western views in the CRC has spawned frequently voiced criticisms of the Convention not taking cultural relativism into account (Ennew, 2000; Harris-Short, 2003). The proponents of the cultural argument attribute the failures in the normative value and the practicability of international human rights as a tool to cultural differences. An indication to this is the high portion of states from the “global south”, particularly Muslim states that have made reservations to their ratifications (OHCHR, 2015). Other indications are in the African Declaration of Children’s Rights, which was finalised the year after the CRC, but not adopted until 1999. Article 31 states responsibilities of the child that are not expressed in the CRC and represent an alternative view: “Every child shall have responsibilities towards his family and society, the State and other legally recognized communities and the international community” (AU, 1990: article 31). However, the option to make declarations and reservations regarding certain articles can be argued as the CRC accommodating cultural differences. Daiute (2008) found in her analysis of state’s declarations and reservations to the CRC “offered insights about how State Parties tailor the CRC to their circumstances and goals” (Daiute, 2008: 731).

The fact that liberal Western values dominate international human rights enable repressive regimes outside the Western cultural sphere to argue that their failure to comply with human rights standards is a measure to protect their own culture (Donnelly, 1989 in Harris-Short, 2003; Pollis, 1996). An alternative argument is given by An-Na’im (1995), who suggests that representatives from states outside the Western cultural sphere is influenced by Western ideas and values to the extent that the notion of universal human rights is heartfelt. Subsequently resulting in a disconnection with the people they are representing.

Sonia Harris-Short (2003) examines in her paper about international human rights law if, and how, the culture argument is used by state parties in dialogue with the Committee on the Rights of the Child in the area of female genital mutilation (FGM). She argues along the lines with An-Na’im concerning the westernization of state elites, effectively

creating a gap between them and the grassroots back home. This in turn creates reluctance to comply at the local level as laws against traditional practices, such as FGM, are “alien ideas” that have been forcibly imposed on them by more powerful outsiders” (Harris-Short, 2003: 143). Harris-Short point this out to be the main issue why international human rights are not based on a true cross-cultural consensus and why universal implementation is so difficult. She sees this as a systemic problem and therefore suggests that “the system must undergo a fundamental transition from a society of states to a society of humankind” (Harris-Short, 2003: 143) The paper is ended by a call for a restructuring of international human rights law where its built from the bottom up, so that it is rooted in all the cultures of the world (Harris-Short, 2003: 181).

Since the adoption of the CRC in 1989 there have been three supplementary protocols, known as Optional Protocols. States must sign and ratify the protocols in order to become members. Each of the Optional Protocols concern specific subjects, such as the protocols on involvement of children in armed conflict, and on the sale of children, child prostitution and child pornography, both adopted by the UN General Assembly in 2000 (Smith, 2008). Both Russia and Norway have signed these two protocols (OHCHR, 2015). The third Optional Protocol was adopted in 2011 and opens for children and their representatives to file complaints for violations of the Convention or its other two optional protocols. The complaints are sent to the Committee, who only accept complaints concerning member states. As of April 23, 2015 the count was 48 signatories and 17 ratifying states, neither of which are Norway or Russia (OHCHR, 2015).

4.3 The Committee on the Rights of the Child

The Committee on the Rights of the Child (the Committee) was established in early 1991 as a treaty body to the CRC (UNICEF, 2007a), with legal basis in article 43:

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

(UN General Assembly, 1989: art.43(1 and 2))

The committee was expanded to 18 expert members in November 2002 in order to handle the increasing backlog of unexamined reports (UNICEF, 2007a). Article 43 further states the election process of the Committee members. Each member of the Committee is independent and does not represent the interests of his or her home country, even though the states nominate and campaign for their representatives to be elected (UN General Assembly, 1989).

The main objective of the Committee is to supervise compliance with, and implementation of the CRC in the ratifying states. Its major tasks in this process are to examine the Initial and Periodic Reports submitted to it by the state parties, and to promote the Convention and realization of the rights of the child through cooperation with UN agencies and other organisations (UNICEF, 2007a). The supervision is designed as an interactive process. The Committee acquire information about the respective states from state party reports and shadow reports from independent actors in order to differentiate issues and prioritize implementations in their recommendations (Karns & Mingst, 2010).

The Committee meets for sessions three times a year at the Palais Wilson in Geneva, Switzerland. Each session lasts for three weeks, during which they examine the reports from the state parties and enter dialogues with representatives from the nine states under review that particular session. A day, two three-hour meetings, is devoted to the public examination of one state party report, and usually two to three hours of discussion behind closed doors to set the concluding remarks. The public examination is conducted as a discussion where both Committee and state party take the floor and where any NGO, journalist or interested individual are free to attend (Committee on the

Rights of the Child, 2015c). The Committee on the Rights of the Child (2015c) consider in the document concerning its working methods that with “the factual situation largely clarified in writing, there should be room in the discussions to analyse “progress achieved” and “factors and difficulties encountered” in the implementation of the Convention” (Committee on the Rights of the Child, 2015c: II,B). The Committee argues in the same document that there also should be ample time to discuss “implementation priorities” and “future goals”, and recommends for that reason that state delegations should involve representatives directly involved in the domestic decision making processes concerning the rights of the child, and preferably headed by someone with governmental responsibility.

The concluding observations are released to the public on the last day of the session as a part of the session report. This document comments on positive aspects, like follow-up measures and progress achieved in implementing the rights of the child, challenges in implementation, main areas of concern, and recommendations to the state party. If the Committee considers any information to be lacking, they will request that additional information from the state in order to better to assess the observations made (Committee on the Rights of the Child, 2015c). The concluding observations are central to the review mechanism as they represent points of measure between the reviews. The Committee expects that the state parties honour the treaty by addressing the matters raised in the concluding observations thoroughly. Furthermore, the Committee expects State Parties to submit information on their follow-up measures concerning the matters of concern in the next state report (Committee on the Rights of the Child, 2015c). However, the recommendations made by the Committee are not legally binding. There is no mechanism for individual complaint, like in many other human rights treaties and there are no sanctions to put in place if the state party does not comply (Donnelly, 2011; Smith, 2008). The degree to which the states comply with the recommendations depends on a combination of resources and political will. The resources needed are both human and material. There needs to be competent people with the ability to cooperate with relevant institutions and organisations as well as financial resources. In addition political will is needed for measures to be implemented. Often times there is will, but not the resources. In those cases UN agencies like UNICEF and UNESCO, and NGOs

contribute in assisting states to implement measures recommended by the Committee (Smith, 2008).

An example of such assistance is described by Johnson, Dovbnya, Morozova, Richards, and Bogdanova (2014) in their article assessing a three-year project called “From Institutional Care to Family Support” aimed at establishing a replicable professional model that would direct the child welfare system in the Russian region of Nizhny Novgorod away from institutional care for children toward other measures of assistance. A development recommended by the Committee in their concluding observations concerning Russia in 2014 (Committee on the Rights of the Child, 2015a: Points 9, 40(a), and 50(a)). The project was a public-private partnership consisting of local authorities, NGOs and a private corporation within audit and advisory service. The authors concluded that such a partnership can create sustainable change in the rights of the child in Russia if applied in more regions (Johnson et al., 2014).

The week following the session the members gather again to form a Pre-sessional Working Group where they prepare the next session (UNICEF, 2007a). The preparations for the next session end in a document called “List of Issues”, which is sent to the Government of the state parties due for review at the next session. The List of Issues is meant to provide the state party with a preliminary indication of what the Committee considers to be matters of priority for discussion. Additional or updated information is also requested if needed. The state parties are requested to answer the List of Issues in writing ahead of the discussion at the next session. The process of pre-sessional work allows both state parties and the Committee to prepare for the discussion (Committee on the Rights of the Child, 2015c).

Once a year one day is set aside from the usual program to undergo General Discussions. In these discussions the Committee explore an article or a related subject with other UN agencies, NGOs, experts and individuals. The purpose of these discussions is to go in depth into a matter in order to improve the Committee’s monitoring of implementation and its recommendations to state parties. Such discussions have concerned diverse subjects such as children in armed conflict, the rights of children with disabilities, violence against children by state, school and within the family, and the right of the child to be heard (UNICEF, 2007a).

In addition to making comments and recommendations to individual states the Committee also issue General Comments “based on the articles and provisions of the Convention with a view to promoting its further implementation and assisting State Parties in fulfilling their reporting obligations” (Committee on the Rights of the Child, 2015a: rule 77). The General Comments cover a wide range of subjects from the general measures of implementation of the CRC to General Comments on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (UNICEF, 2007a). Relevant for this paper are general comments no. 8 concerning the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, and no.13 concerning the right of the child to freedom from all forms of violence. Both these general comments are referred to in this paper in the conceptualization of the term *violence against children* and to clarify the Committee’s standpoints.

4.4 Reporting to the Committee

State Parties are obliged to report to the Committee through the legal basis stated in article 44 of the CRC:

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights

(a) Within two years of the entry into force of the Convention for the State Party concerned; (b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfillment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the

implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

(UN General Assembly, 1989: art. 44)

The article states that each state party is obliged to deliver an Initial Report two years after ratification and a periodic report every five years after that. These reports are intended to provide the Committee with enough information for them to assess the situation of child rights in a given country in order to make their concluding observations. State parties are required to make these reports easily accessible to the public in their home countries (UNICEF, 2007a).

In addition to the states' own accounts the Committee rely heavily on supplement reports from other stakeholders, such as NGOs, and UN entities. In many countries NGOs form alliances to file joint reports, so-called shadow reports. These reports provide the Committee with information from different sources with different agendas than that of governments. That way the Committee can base their assessments on a richer description of the situation, forming a more solid basis for the Committee's comments and recommendations (Smith, 2008).

4.5 The Rights of the Child in Norway

The notions of children having rights and being seen as individuals rather than possessions of their parents grew towards the end of the nineteenth century. In industrialized societies like Britain and the United States movements began advocating for the protection of children against cruelty. This spread to Norway, and in 1896 passed the Guardianship Act (Vergemålsloven), the first law concerning the protection of children. The rise of the Norwegian welfare state after World War II saw a greater state involvement in family life. Along with the development of the modern society the relationship between state and family has evolved, but constantly revolving state

support for families and state demands placed on parents to ensure their children a safe and nurturing upbringing. (BLD, 2012: 26).

The view of the child as an individual with rights became prominent and in 1981 the Norway became the first country to establish the office of ombudsperson for children. The ombudsperson a politically independent office and is expected to advocate on behalf of children and raise awareness of the rights needs of the child. This involves advocating children's interests in government policy setting, proposes measures that will benefit children's interests, and also propose measures that seek to mitigate conflicts between children's interests and societal interests. In addition to this the office of ombudsperson distributes information to the public about children's rights and interests. All institutions, public and private, that affect children are required to submit information to the ombudsperson, who also enjoys access to all these institutions. With these extended rights the ombudsperson for children is an independent actor with the obligation to criticize any person, institution, administrative level regardless of any consideration than the interests of the child and its rights (Flekkøy, 1989 in Gran & Aliberti, 2003: 89). The ombudsperson is in this capacity active in putting children on the agenda by the use of the media.

For the ombudsperson to voice children's issues she needs to listen to children voices. There is therefore a telephone service for children, and others, to provide information about children's well being. However there are some notable restrictions placed on the ombudsperson connected to this. The ombudsperson can not intervene in specific individual cases where there are disputes within families other than to ensure that the rights of the child, such as legal representation, is upheld (Barneombudet, 2015c; Gran & Aliberti, 2003). The children's ombudsperson does not receive complaints concerning violations of the rights of the child, but informs and guides children or their representatives in filing complaints to the relevant body (Barneombudet, 2015a).

The prohibition of violence against children in Norway began with a national law from 1891 limiting the allowed use of violence against children to child rearing was repealed in 1972. There were however doubts whether the repeal meant that corporal punishment was illegal, so in 1987 paragraph 30 of the Children Act was changed to

include a text prohibiting the use of physical and psychological violence against children. This, along with paragraph 228 of the Penal Code of 1902 constitutes the legal prohibition of violence against children in Norway (Hennum, 2008). This paragraph will be continued in the new Penal Code of 2005 as paragraph 271, when the new act is put into effect (Stang, 2011). In 2003 the CRC was incorporated into Norwegian law through the national Human Rights Act and holds precedence over other national legislation.

Corporal punishment is illegal in Norway, but there are uncertainties whether it is a punishable crime. Elisabeth Gording Stang (2011) has studied the considerations made in the legislative history of the new Penal Code and the deliberations from specific court cases where parents were charged with corporal punishment and violence against children. Stang found that the judiciary system is not sending a clear enough message to society that any form of violence against children, including in child rearing situations, by allowing unclear sources of law and diverging legal precedencies. Stang argues that the legal position of children is weakened as a consequence as long as any ambiguities are allowed to rule (Stang, 2011).

An exact mapping of the scope of violence against children within a society is challenging as occurrences often happen within the home and is a sensitive subject. Such studies should therefore be regarded as indicative. A study of over 7000 Norwegian high school students from 2007 concerning the prevalence of corporal punishment and violence in the home showed that relatively many students had experienced minor violent infringements against them during their upbringing, relatively few had experienced severe violent infringements against them, and very few had experienced both severe violence, being witness to severe violence, and severe sexual assault. The study found that over 80 per cent had never experienced violence against them by an adult family member or caregiver. The majority reported to have experienced violent acts against them once or a low number of times, while the percentage of those who reported to be victims of high frequency violence was quite low at two percent (Stefansen & Mossige, 2007). Low family income, parental drug use and immigrant background were found to be indicators of increased risk of violence from parents. Low-income families are more frequent among immigrants than the larger population (Sommerfeldt, Hauge, & Øverlien, 2014), but that did not have an effect on the prevalence of violence against children by their parents (Stefansen & Mossige, 2007).

The same study showed that one in ten have witnessed violence against a parent or caregiver, but only two percent had witnessed violence against both parents. In these cases the violence was more often directed at the mother than the father, regardless of the severity. 22 percent of girls and eight percent of boys stated they had had an experience of minor sexual assault. These numbers declined for more severe sexual assault, and for rape it was nine percent of girls and one percent for boys. Most sexual assaults had been committed by someone who was not family and half were committed by a friend, sweetheart or acquaintance.

4.6 The Rights of the Child in Russia

The predominant views on the child during the Soviet era were through its parents, its rights being protected through the protection of the mother's rights and not as an individual legal subject as the Convention states. Traditional Soviet views on the child still persist in Russian society, something Olga Khazova illustrates by quoting the only place children are mentioned in the Russian Constitution of 1993: "Motherhood and childhood, family are under protection of the state" (Khazova, 1996: 213). Writing in 1996 Khazova described that in the process from planned economy to market economy children were often left out of consideration when drawing new legislations, despite that the ratification of the Convention in August 1990 ushered a review of the national legislation to bring it in line with international human rights norms. The approach to problems connected to children was not led by a general or consistent plan. Khazova argued that Russia had failed to address the principle issues concerning children, something that was seen in the protection of the rights and interests minors, which was fragmentary and unsystematic (Khazova, 1996).

Ann A. Rudnicki (2012) has written an article on the development of Russia's child protection and welfare system based on ethnographic, literature-based and documentary research between 2001 and 2010. She explains that since Khazova wrote her contribution Russia have passed hundreds of laws concerning children and their rights in order to accommodate new priorities and understandings about children (Rudnicki, 2012). However, these laws are often declarations of principle more than true intentions to change social realities, subsequently they lack the sufficient enforcement and political will (Coalition of Russian NGOs, 2013; Kravchuk, 2009; Rudnicki, 2012).

One of the measures introduced was the establishment of the office of Presidential Commissioner for Children's Rights in 2009, which was soon followed by the establishment of a national network of regional Children's Commissioners (Russian Federation, 2011). The office represents the Russian equivalent of a children's ombudsman, whose task it is to advocate on behalf of children and raise awareness of their rights and needs (Gran & Aliberti, 2003). However, the fact that the president and regional administrators appoint the Commissioners create political and administrative ties that hinders any true independent monitoring on the part of the Commissioners (Coalition of Russian NGOs, 2013).

The need for new priorities concerning children became apparent following the break-up of the Soviet Union as the growing numbers of abused and abandoned children living on the streets of Russia raised awareness of the problem (Balachova, Bonner, & Levy, 2009). By 2002 the reported number of children bereft of parental care was 700,000 (Aref'ev, 2005), but other estimates have gone as high as five million (Balachova et al., 2009). The reasons why children are living on the streets are varying. Not having any parents alive is not a factor present for the majority, as it is estimated that 80 percent of street children have at least one parent alive (Balachova et al., 2009). The majority of the street children are what Rudnicki refers to as *social orphans*, children who have one or two living parents, but living with them is dangerous or unhealthy due to abuse or neglect. Social orphans were stated to make out 2.5 percent of Russia's youth according to a 2009 publication, which was high compared with the UK, the US and Germany, where the numbers were 0.5, 0.69 and 0.89 respectively (Rudnicki, 2012).⁴ A common factor for why children are not living with their parents is physical abuse and parental alcohol abuse (Aref'ev, 2005; Balachova et al., 2009; Rudnicki, 2012; Stephenson, 2001).

For the Committee's third periodic review of Russia a coalition of Russian NGOs reported that violence against children and/or women happened in 75 percent of Russian families (Coalition of Russian NGOs, 2005). Such high occurrence implies that domestic violence including violence against children is widespread. It is also an indication of a society with permissive attitudes towards violence against children. On this Rudnicki found that "...Russia is one of the countries in the world in which physical

⁴ The publication is in Russian, so I have not been able to control Rudnicki's citation.

punishment is considered acceptable, despite efforts by educators since the late Soviet years to emphasize less harsh and more diverse approaches to child-rearing” (Rudnicki, 2012: 33). Furthermore, a study from 2006 (Shor) conducted with 100 parents from St. Petersburg as the respondents 67 % answered “yes” to a binary question whether physical punishment could be considered appropriate in some situations, while a content analysis showed a 84 % approval rate (Shor, 2006: 433).

Corporal punishment has been made illegal within educational and other public institutions connected to children, however it remains lawful for parents to use physical punishment as a tool in child-rearing. Knowing that much of Russian law has been reviewed in order to make amendments to accommodate for their commitments to the CRC, makes the omission of banning corporal punishment somewhat surprising (Kravchuk, 2009). A ban on corporal punishment would be in tune with the development of passing and amending declarative legislation, as argued by some (Coalition of Russian NGOs, 2013; Kravchuk, 2009; Rudnicki, 2012). This omission can be interpreted as a sign of the prevalence of permissive attitudes towards corporal punishment, in that such a ban would diverge too much from the view of the general public.

The issue of child sexual abuse receives limited recognition in Russia (Balachova et al., 2009). As a consequence the reluctance to report abuse to the authorities is great. The total number of sex crimes cases concerning children 0-16 in Russia in 2005 was 1,632 (UNICEF, 2007k). This is likely only to be a small fraction of the true number of cases of sexual abuse. Surveys would offer a result closer to the truth. Unfortunately, I have not been able to find such a study. We might, however, get an indication of the size of the issue by following the argumentation of Balachova et al. (2009), who give a conservative estimate, using numbers from a study of 21 countries⁵, that five percent, or one million of Russia’s children have experienced sexual abuse. This indicates that the vast majority of victims of child sexual abuse does not receive treatment and perpetrators are not prosecuted.

⁵ Finkelhor D (1994). The International Epidemiology of Child Sexual Abuse. *Child Abuse and Neglect: The International Journal* 18: 409–417.

Part II: Analysis and Discussion

5.0 Analysis

5.1 Introduction

I will in the following analyse the texts for both countries within the previously mentioned categories in order to determine if the Committee in its comments and recommendations manage to reflect the legal, social and political contexts. As the level of implementation of the rights of the child are different in the two countries the comments and recommendations are likely to differ. The question is therefore whether the texts manage to incorporate a comparative perspective, in order to reflect the relative differences in severity and magnitude of the situation of the rights of the child in the respective countries. In order to answer this I will first examine the comments and recommendations as individual texts to determine the message communicated from the Committee. I will then compare this with information from other sources concerning the legal, social and political situation of the different subjects in the respective countries.

The review process undergone by members of the Convention on the Rights of the Child is extensive and covers many areas concerning the situation for the rights of the child in each state reviewed. I therefore chose to limit the research by selecting certain issues that have been addressed in the Concluding Observations of both Norway and Russia by the Committee on the Rights of the Child. These are independent monitoring of the rights of the child and violence against children. I chose to compartmentalise the subjects into similar subheadings for purposes of comparing. I largely followed the grouping of subjects by following the subheadings provided by the documents I examined. The independent monitoring will be analysed under one subheading, while violence against children has been divided into three groups, depending on the type of violence or abuse. The subheadings are: 1) independent monitoring; 2) violence against children; 3) abuse and neglect; and 4) sexual exploitation and abuse.

The concluding observations I have examined are both divided into three main sections: A. Introduction, B. Follow-up measures and progress achieved by the State party, and C.

Main areas of concern and recommendations (Committee on the Rights of the Child, 2010, 2014). The first section briefly states which cycle report the observations are based on and recognises the dialogue held at the related session. The second section is a short list where the Committee recognises adopted legislative measures, ratification and/or accession to international child rights agreements, and new policy measures introduced since the last review by. The third section is the main part of the document, here the Committee comment what they regard to be the most important subjects of concern and offer their recommendations to this. Different levels of subheadings list the subjects topically. Each subject is divided into two paragraphs. The first commenting the Committee's assessment of the current situation, usually first a recognition of progress made and then the concerns. In the second paragraph the Committee offers its recommendations on how to improve the rights of the child on the particular subject.

As previously explained in the methods section I have categorized key words in the concluding observations into three categories. The key words express to what degree the Committee is concerned regarding an issue, or if they regard a development regarding an issue using a neutral term or a positive one. The first category contains words that express concern. These words are the adverbs *worried* and *concerned*, and the verb *regret* as well as the verb *urge*, which is used in the recommendations to emphasize the need for measures. To nuance the level of concern the Committee adds other adverbs to *deeply*, *seriously* and *strongly*. The second category concerns the instances where the Committee recognises that there is a development regarding an issue, but not to the extent that the Committee chooses to praise the state party, therefore they use the neutrally charged verb *note*. In the third category the Committee acknowledge positive developments, often by adding phrases to *note* in order to give it a positive nuance, resulting in phrases like *notes with appreciation* or *notes with interest*, further positive developments are expressed with the verbs *welcomes*, nuanced with *particularly welcomes*, and *appreciates*.

The analysis of the texts for the two countries will be compared with each other and with the contextual information provided earlier in this paper. This is done in order to determine whether the Committee manages to reflect the contexts in the two countries and if the Committee has managed to incorporate a comparative perspective. The latter

is central when it comes to communicating differences in the compliance to the CRC of the two countries as well as identifying possible compliance gaps of the respective states.

5.2 Independent Monitoring

5.2.1 Introduction

The Committee regards independent monitoring within a state as essential for the progress of implementation. The existence of a national institution politically independent with the mandate and ability to independently monitor, promote and protect the rights of the child. The Committee consistently recommend states to establish independent human rights institutions, such as a children's ombudsperson or commissioner (UNICEF, 2007a). The role of the children's ombudsperson is to advocate on behalf of children or act as a mediator between children, parents, the state or others. Being independent politically and administratively is crucial in enabling the ombudsperson in addressing any issue. His or her only loyalty is to the children and their rights. The ombudsperson is therefore free to address any issue that might be difficult for others due to different loyalties to employers or political leadership (Gran & Aliberti, 2003). This is in line with the so called Paris Principles, which were adopted by the UN General Assembly in 1993 and serve as a set of guiding principles for the composition and function of national human rights institutions (UN General Assembly, 1993).

Gran and Aliberti (2003) have conducted a study of what traits characterize states that have and have not introduced the office of children's ombudsperson. In it they found that the existence of an office of children's ombudsperson is connected to a country's proportion of children to adults, combined with its wealth. Countries with large populations of children are likely to be poorer than countries with a more evenly distributed demographic. The wealthier countries also have the resources to pay for this kind of social policy. Other determining factors were the strength of political and social rights, as well as international pressure. On the latter the study found that international pressure, and in some cases the ratification of the CRC, could be connected to the establishment of an office of children's ombudsperson (Gran & Aliberti, 2003).

5.2.2 Analysis of text concerning Norway

13. The Committee notes the newly adopted regulation of the office term of the Ombudsman for Children, but regrets that its proposal to give the Ombudsman for Children the mandate to receive complaints from children was not accepted even though such a mandate would have been a way to provide immediate assistance to children if needed, and could have served as an instrument to diagnose main problem areas of child rights violations.

14. The Committee recommends that the State party consider providing the Ombudsman with the mandate to receive complaints from children and the resources to follow up complaints in a timely and effective manner.

(Committee on the Rights of the Child, 2010)

Both the comment and the recommendation to Norway regarding the independent monitoring are brief and concern two developments: a new regulation for the office term, and a specific widening of services, namely a mandate to the children's ombudsperson to receive complaints from children. The Committee expresses in its recommendations that the latter would be a positive measure in furthering the rights of the child. In fact, the third optional protocol opened for a similar mechanism when it was adopted in December 2011, a year and a half after the review of Norway. The optional protocol states the right of the child or its representatives to complain to the Committee (UN General Assembly, 2011).

When reading the comment and recommendation without prior knowledge about independent monitoring of the rights of the child in Norway the reader is left with an implicit impression that the office of Children's Ombudsperson is an established institution in Norway. The regret expressed by the Committee concerns an expansion of the office mandate, which indicates prior existence. Both comment and recommendation are short and concise in commenting changes to the office. The language is neutrally loaded when commenting the regulation in office terms using the word "notes", and then negatively loaded language when commenting the rejection of the proposed complaint mechanism using the term "regrets".

5.2.3 Analysis of text concerning Russia

16. The Committee notes the establishment of the post of commissioner for children's rights at the federal and regional levels. However, it is deeply concerned that the position of commissioner is directly linked to the Office of the President and not to the Parliament. Furthermore, it is concerned about the non-transparent procedure for appointing commissioners and reports that many of them have little experience in protecting children's rights, do not observe the confidentiality of cases and act rather as law enforcement officials.

17. The Committee recommends that the State party introduce a transparent and competitive process, regulated by law, for nominations and appointments to all posts of commissioners for children's rights, ensuring that the candidates are selected on the basis of merit and are free from political or other influence and in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). It also recommends that the State party provide the commissioners' offices with the necessary human, technical and financial resources, and their staff with the necessary training on children's rights.

(Committee on the Rights of the Child, 2014)

When reading the comment and recommendation without prior knowledge about independent monitoring of the rights of the child in Russia it becomes evident that the Presidential Commissioner for Children's Rights is an institution that has been established since the Committee's last review of Russia. Further it is clear that the commission is a monitoring institution, but that the Committee has strong objections to its degree of independence, and is subsequently not complying with the Paris Principles. The commission's organizational placement under the president creates political ties, automatically ruling it out as an independent institution. In addition to this the Committee has concerns regarding the transparency of the appointment process and the competence of those appointed, as well as the execution of the tasks not being up to the standards of monitoring institutions.

5.2.4 Summary/comparison

Independent monitoring of the rights of the child in Russia and Norway as described in the respective concluding observations illustrate great differences. The Committee differentiates the degrees to which they consider change to be necessary by using words like “deeply concerned” and “concerned” for the issues mentioned concerning Russia, while for Norway the negative words is “regret”, accompanied by the Committee’s assessment of the respective context these words manage to provide the reader with a comparative perspective of the situation for independent monitoring in the two countries. This also indicates that the Committee regards the level of severity in Russia’s failure to comply as far greater than the rejection of the proposal to widen the mandate of the Norwegian ombudsperson to receive complaints. However it is hard to identify any indications to the magnitude of the issues in the two countries. Seeing

The Norwegian children’s ombudsperson is an established institution that enjoys great freedoms in order to fill the role as an independent monitor, something the Committee manages to communicate, albeit implicitly. The Russian counterpart is a relatively newly established institution, but differs from the Norwegian in that it is directly linked to the office of president and subsequently, by definition, not independent and therefore in violation of the Paris Principles. The lack of independence is a clear example of a compliance gap, as the measure does not conform to the provisions set by the CRC (Dai, 2013). The difference between the countries when it comes to the level of compliance can be placed within the framework of the spiral model; Norway has reached the final stage, rule-consistent behaviour, due to its sustained compliance with the CRC; and Russia has reached the fourth and penultimate stage of prescriptive status, characterized amongst other things by the establishment of domestic human rights institutions (Risse & Ropp, 2013). Furthermore, Russia’s failure to establish a truly independent monitoring institution may indicate weak political and social rights according to the findings of Gran and Aliberti (2003). When apply

5.3 Violence against Children

5.3.1 Introduction

Article 19 of the CRC concerns the child’s right to protection from all forms of violence. This article obliges state parties to ensure that children within the state is not subjected

to physical or psychological violence, abuse, neglect or exploitation (Hennum, 2008). Due to the ambiguities in the text of the article the Committee issued a general comment to clarify how the article should be interpreted in order to strengthen and expand measures to stop all practice of violence against children. The Committee makes in the general comment that no form of violence against children are acceptable:

The Committee has consistently maintained the position that all forms of violence against children, however light, are unacceptable. "All forms of physical or mental violence" does not leave room for any level of legalized violence against children. Frequency, severity of harm and intent to harm are not prerequisites for the definitions of violence. States parties may refer to such factors in intervention strategies in order to allow proportional responses in the best interests of the child, but definitions must in no way erode the child's absolute right to human dignity and physical and psychological integrity by describing some forms of violence as legally and/or socially acceptable.

(Committee on the Rights of the Child, 2011: point 17)

Article 37 concerns the protection of children from torture, degrading treatment and deprivation of liberty. *The Implementation Handbook of the CRC* (UNICEF, 2007a) regards this article to provide provisions for the protection of children against abuses both by state and caregivers.

5.3.2 Analysis of text concerning Norway:

30. The Committee notes with appreciation the measures taken by the State party to follow up on the recommendations of the United Nations Study on Violence against Children. The Committee particularly welcomes the Plan of Action concerning violence in close relationships (2004-2007) which also resulted in the inclusion of a new provision in the Penal Code directed at violence in close relations. The Committee also notes with interest that a proposition for amendments to the Children Act on violence against children has been submitted and is now being considered by the Norwegian Parliament. The Committee strongly appreciates the support to the Special Representative of the Secretary-General on violence against children provided by the State party.

31. With reference to the United Nations Study on Violence against Children, the Committee recommends that the State party:

(a) Take all necessary measures to implement the recommendations of the United Nations Study on violence against children (A/61/299), taking into account the outcome and recommendations of the Regional Consultations for Europe and Central Asia (held in Ljubljana, Slovenia, 5-7 July 2005). In particular, the Committee recommends that the State party pay particular attention to the following recommendations:

(i) Prohibit all forms of violence against children;

(ii) Prioritize prevention;

(iii) Ensure participation of children;

(iv) Strengthen international commitments;

(b) Use the recommendations of the Study as a tool for action in partnership with civil society and, in particular, with the involvement of children to ensure that all children are protected from all forms of physical, sexual and psychological violence and to gain momentum for concrete and time-bound actions to prevent and respond to such violence and abuse; and

(c) Collaborate with and continue to support the United Nations Special Representative to the Secretary-General on violence against children.

(Committee on the Rights of the Child, 2010)

When reading the Committee's comment without prior knowledge about the child rights situation concerning violence against children the reader is left with the impression that Norway has a well established system and is committed in strengthening children's right to protection from violence both legally and politically. By using positively charged key words and phrases, like "notes with appreciation", "particularly welcomes", "notes with interest", and "strongly appreciates", the Committee sends a message to the reader that they regard Norway's compliance to the CRC on the subject of violence against children as high. The omission of any negatively charged key words strengthens this view. As there are no negative aspects mentioned in the comment, the Committee has no specific issues to reflect in their recommendation. The recommendations are therefore disconnected from the comments and refer instead to a specific study and a regional consultation and the recommendations from these, seemingly as a general recommendation. The Committee directs attention to four points in particular, two of

which concern prohibition of all forms of violence against children and that prevention should be prioritized, leaving the impression that children in Norway are not legally protected against all forms of violence after all.

5.3.3 Analysis of text concerning Russia:

Torture and other cruel or degrading treatment or punishment

30. The Committee notes the establishment of the Investigation Committee to identify, investigate, prosecute and sanction acts of torture, violence and inhumane or degrading treatment against children. However, it regrets the lack of mechanisms for children themselves to file complaints on acts of ill-treatment. The Committee is, in particular, concerned about:

- (a) The widespread ill-treatment by representatives of law enforcement agencies of children in police detention or during pretrial proceedings;
- (b) Abuses by the police targeting Roma children, including illegal detentions and searches, especially during the frequent anti-Roma campaigns in the compact Roma settlements all over the country;
- (c) Widespread violence and attacks against children of other national minorities, including migrant children, who are identified by their appearance, such as the colour of their skin and the shape of their eyes, and attacks “by association”, where the victims are chosen for belonging to certain subcultures easily identified by aspects of their appearance;
- (d) The lack of investigations by the law enforcement authorities into reports of violence against the above-mentioned groups, which reinforces the feeling of impunity.

31. **The Committee urges the State party to take immediate measures to:**

- (a) Prevent incidents of ill-treatment by conducting independent monitoring and unannounced visits to places of detention and undertaking comprehensive training programmes for security and police personnel, as well as establishing an effective complaints and data collection system for complaints of torture or other forms of ill-treatment of children deprived of their liberty;**
- (b) Launch prompt and effective investigations into all allegations of ill-treatment and ensure that the perpetrators are prosecuted and punished under the relevant articles of the Criminal Code;**
- (c) Prevent the abuse and ill-treatment of persons belonging to the Roma community,**

especially their children, and put an end to anti-Roma raids throughout the country;

(d) Prevent violent attacks against national minorities, migrant workers and persons belonging to subcultures by educating the public, especially young persons, about the principles of human rights and non-discrimination and by reinforcing the prosecutorial authorities' supervision of the law enforcement agencies;

(e) Initiate investigations into all reports of violence and attacks against minority groups and prosecute and punish perpetrators in a way that is proportionate to the gravity of their crime.

Corporal punishment

32. The Committee notes that corporal punishment is unlawful as a sentence for crime and is considered unlawful in schools and penal institutions, but regrets that it is not explicitly prohibited in those settings. The Committee is also concerned that corporal punishment remains lawful in the home and in alternative care settings.

33. The Committee draws the attention of the State party to its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment and urges the State party to prohibit by law the use of all forms of corporal punishment in all settings, in particular in the home and in alternative care institutions, and provide for enforcement mechanisms under its legislation, including appropriate sanctions in cases of violations. It further recommends that the State party strengthen and expand awareness-raising and education programmes and campaigns, in order to promote positive, non-violent and participatory forms of child-rearing and discipline.

Freedom of the child from all forms of violence

34. Recalling the recommendations of the United Nations study on violence against children of 2006 (see A/61/299), the Committee recommends that the State party prioritize the elimination of all forms of violence against children. The Committee further recommends that the State party take into account general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, and in particular:

(a) Develop a comprehensive national strategy to prevent and address all forms of violence against children;

(b) Adopt a national coordinating framework to address all forms of violence against

children;

(c) Pay particular attention to and address the gender dimension of violence;

(d) Cooperate with the Special Representative of the Secretary-General on Violence against Children and other relevant United Nations institutions.

(Committee on the Rights of the Child, 2014)

When reading the Committee's comment without prior knowledge about the child rights situation concerning violence against children in Russia the reader is left with the impression that there are many challenges. The Committee has arranged the subject of violence against children into two categories based on the type of violence. By dividing the subject of violence against children in different categories the Committee communicates to the reader that the subject is a widespread problem. In the first category, torture and other cruel or degrading treatment or punishment, the Committee recognizes the establishment of an investigation committee dedicated to legal persecution of "acts of torture, violence and inhumane or degrading treatment against children" (point 30). It seems, however, that the Committee regards this to be out of tune with the possibilities for children to file complaints on the mentioned acts. The Committee then continues with a four-point list of concerns regarding violence towards children of minority groups, and illegal and negligent practices in the law enforcement agencies. The comments are followed by a list of connected recommendations where the Committee "urges" Russia to take immediate measures (point 31), indicating the severity of the issues. The Committee notes in the second category that corporal punishment is considered unlawful in public institutions such as schools and penal institutions, but not explicitly illegal, while it remains lawful in the home or other care settings. The recommendation is connected to the comment as it "urges" Russia to prohibit all forms of corporal punishment in all settings, and adds a recommendation for measures to raise awareness of non-violent methods of child-rearing. The latter points out a wide spread lack of knowledge of alternatives to violence as a method in child-rearing indicating that the problem is embedded in society. Lastly the Committee recommends Russia to follow the United Nations Study on violence against children and general comment no. 13 as general guides to eliminate all forms of corporal punishment.

5.3.4 Summary/comparison

The Committee manages to incorporate into their comments and recommendations comparative perspectives, and to reflect the relative differences in magnitude and severity of the situation of the rights of the child concerning violence against children in the respective countries. The differences in the amount of text used for the respective countries indicate differences in magnitude. Compared with the few issues covered and the absence of words expressing concern in the text about Norway, the larger number of issues covered in the texts regarding Russia combined with the frequent use of negatively charged words indicates that the situation for the rights of the child concerning violence against children is far worse in Russia than in Norway.

In her article Neumann (2014) comments the point that the Committee does not communicate the fact that there already exist legal protection against violence and abuse for children in Norway, and that the vast majority of the population is against any violence inflicted on children by adults. Neumann continues by claiming that if the Committee's comments and recommendations are read without any prior knowledge to the legal and political situation in Norway it may seem that Norway has a long way to go in adequately securing the rights of the child against violence and abuse (Neumann, 2014).

Neumann fails, however, to mention the disconnect between the Committee's comments and recommendations. The general setup in the Concluding Observations is that the points of recommendations reflect, and sometimes expand, the issues mentioned in the preceding comments point. In this case they do not. The recommendations refer to the United Nations Study on Violence against Children and list a number of measures that could be recommended to any country. Since one case of violence or abuse against is one too many there can be no room for complacency in securing the rights of the child against violence and abuse. One simply cannot over-comply on those issues. All, but one of the points in the recommendations from the Committee are points that can be constantly improved. The exception is the point concerning the prohibition of all forms of violence against children, which is a binary measure, either there is prohibition or there is not, something that Norway did in 1987. Thus, if we disregard the exception the recommendations made to Norway can, in that sense, be regarded as generic.

Examining point 34 in the Concluding Observations concerning Russia strengthens this argument, as the recommendations are quite similar to those given to Norway. The point is under the subheading “Freedom of the child from all forms of violence” and not connected to any specific comment point. Instead the point follows the two preceding subheadings concerning torture and other cruel or degrading treatment or punishment, and corporal punishment as an additional set of general recommendation. As with the recommendations made to Norway the Committee refers to the United Nations Study on Violence against Children, as well as additional recommendations from general comment no. 13, which concerns the freedom from all forms of violence (Committee on the Rights of the Child, 2011) are also included.⁶

Neumann (2014) also argues that the texts reveal striking disparities between the criticisms directed toward the different states and the political, social and material circumstances in the respective countries. She claims that such misrepresentations of the gaps that exist between countries concerning compliance are homogenizing the living conditions in the respective countries. By this she means that the representations the Committee gives are too similar than in reality, effectively evening out the differences and making it seem like the compliance gap of the respective countries are almost equally wide. As the concluding observations are used by NGOs to influence change in domestic policies, Neumann argues that the language used by the Committee can determine the criticism towards the regime. Losing the comparative perspective by homogenizing can therefore take the sting out of the NGOs critique, thus being less or counter productive as a tool in their goal to pressure the regime to close the compliance gap.

This is not so in the case of Russia and Norway, where the Committee is in line with the true context by clearly communicating a much wider compliance gap for Russia than Norway. The conditions for the rights of the child concerning violence are better in Norway than in Russia, when it comes to prevalence, protective measures, and attitudes in the general public. The Committee provides the Russian networks advocating for improvement of the rights of the children with critical texts concerning many points that can be referred to in their work to pressure the Russian government to be more

⁶ General comment No. 13 was issued after the fourth Concluding Observations for Norway (2010) and is therefore not referred to in the recommendations given to Norway.

compliant to the CRC. The lack of critique directed at Norway, however, offers little to the advocacy networks. If one is to assume that a state party cannot over-comply concerning the issue of violence against children, then the Committee should be able to find points of criticism in the midst of all the positive advances and not just offer a list of general recommendations.

5.4 Abuse and Neglect

5.4.1 Introduction

Article 6 represents one of the four general principles of the Convention. It refers to concepts like “survival and development” and that this should be ensured by states to “the maximum extent possible” (UN General Assembly, 1989). The protection from violence, abuse, exploitation and neglect is crucial for the development of the child.

5.4.2 Analysis of text concerning Norway:

36. The Committee notes with appreciation the numerous Action Plans elaborated by the State party to address abuse and neglect of children. The Committee welcomes the fact that training was held for judges, experts and lawyers on violence and abuse and custody cases where violence and abuse are suspected. The Committee is concerned, however, that Child Welfare Services in some areas of the country do not have the resources or the competencies to identify and support children who are exposed to violence and that the existing helpline is not well enough known to children. The Committee is also concerned that competence is limited to dealing with violence in families of different cultures and to communicating advice for violence-free upbringing of children.

37. The Committee recommends that the State party ensure that adequate and appropriate assistance is provided to children and their families in all areas of the country, taking into account respect for other cultures and that children have information about the helpline and where to find effective assistance.

(Committee on the Rights of the Child, 2010)

When reading the Committee’s comment without prior knowledge about the child rights situation concerning abuse and neglect in Norway the reader is left with the impression that it is a prioritized issue politically. There is a system in place where the Child Welfare

Services are charged with the task of identifying and supporting children exposed to violence and that there is a helpline for children to call. However, there are regional differences in resources and competencies that affect the quality of services provided for children exposed to violence, especially those in families of different cultures. The Committee is also concerned about children's knowledge about the helpline. The recommendations offered by the Committee reflect these issues by recommending that Norway offer equal quality service regardless of geographical location, increase knowledge concerning families of different cultures, and raise awareness of the helpline.

5.4.3 Analysis of text concerning Russia

45. The Committee is concerned about the existence of baby boxes that allow for the anonymous abandonment of children in several regions of the State party, which is in violation of, inter alia, articles 6 to 9 and 19 of the Convention.

46. The Committee strongly urges the State party to undertake all the measures necessary to not allow baby boxes and to promote alternatives, taking into full account the duty to fully comply with all provisions of the Convention. Furthermore, the Committee urges the State party to increase its efforts to address the root causes that lead to the abandonment of infants, including by providing family planning services and adequate counselling and social support for unplanned pregnancies and the prevention of high-risk pregnancies.

(Committee on the Rights of the Child, 2014)

When reading the Committee's comment without prior knowledge about the child rights situation concerning abuse and neglect in Russia the reader is offered little information about the context. It is evident by reading the comment that there are mechanisms in place in Russia for those who anonymously want to abandon their babies. The existence of such boxes makes the Committee "concerned", but this is enhanced in the recommendation, where the Committee "strongly urges" Russia to find alternatives to baby boxes and to address the root causes for the abandonment of infants. This indicates that the Committee finds the practice to be highly severe. There is no mention of what those root causes are, but the reader is told that the Committee regard services for family planning and support for unplanned pregnancies as measures to address them.

5.4.4 Summary/comparison

The Committee does not offer much contextual information concerning either country. Based on the sheer amount of text and issues addressed in the comments it looks like the Committee is equally concerned of the developments in the two countries, however the recommendations reveal the Russian case is considered by the Committee to be more severe. The magnitude of the issues are not addressed enough to be determined.

The concerns communicated in the comments and recommendations on the issues of abuse and neglect lack a comparative perspective. The issues addressed in the comments about Norway are well known and documented challenges facing the child welfare service of delivering equal quality service in small and peripheral municipalities as in the larger population centres, and a general lack of competency in identifying abuse and working with families where there is violence (BLD, 2012). These are serious deficiencies in the Norwegian system; with the effect that the geographical location of the child determines to what degree its rights to protection from, and treatment after abuse or neglect are upheld. However, the issue addressed in the comments and recommendations for Russia, which concerns an existing practice of publicly facilitated abandonment of babies is by far a more severe violation of the rights of the child. By lacking a comparative perspective the Committee fails to differentiate the severity of the issues addressed regarding Norway and the ones regarding Russia.

Abuse and neglect is a widespread problem in Russia. It is therefore quite remarkable that the Committee does not mention other issues more closely. For example the existence of baby boxes can be connected to the issue of homeless children, which still prevails as one of the biggest problems concerning the rights of the child in Russia. As mentioned under point 4.6 the majority of the homeless children have been exposed to abuse and neglect at home or in an institution (Rudnicki, 2012). The Committee also fails to comment on the shortcomings of the system in preventing the causes to the problem of parents abandoning their babies. Instead of just mentioning these causes as root causes in the recommendations the Committee would provide the reader with a better understanding if the root causes had been addressed in such a way that would provide the reader with more understanding of the context.

The language used by the Committee in this subheading contributes to a homogenization of the conditions for the rights of the child concerning abuse and neglect. As this represent one of the biggest problems the rights of the child faces in Russia it seems odd that the Committee limits the number of issues it criticizes to one. This in turn could be regarded a squandering an opportunity to provide advocacy networks with a powerful tool to pressure the government to change its behaviour to comply fully with its commitment to the CRC.

5.5 Sexual Exploitation and Abuse

5.5.1 Introduction

Sexual exploitation and abuse is addressed in article 34 and in the Optional Protocol on the Rights of the Child on the sale of children. Article 34 states:

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

(UN General Assembly, 1989)

5.5.2 Analysis of text concerning Norway

55. The Committee welcomes new provisions and amendments to the Penal Code in the area of sexual exploitation and abuse, including a provision concerning child pornography and meeting a child with the intent to commit a sexual offence. The Committee also welcomes the strategy plan against sexual and physical abuse against children (2005-2009). The Committee notes with interest that a mapping project to map the extent of, inter alia, sexual exploitation and abuse was carried out. The Committee also notes with appreciation the existence of “children’s houses” which provide support for children who experience abuse, including

sexual abuse. The Committee regrets, however, that competence in dealing with sexual exploitation and abuse is limited. The Committee is also concerned at the very long period between reporting and examination of cases of sexual abuse, despite the 14-day statutory deadline for a judge's examination of the case.

56. The Committee recommends that the State party:

(a) Continue to implement appropriate policies and programmes for prevention, recovery and social reintegration of child victims, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996, 2001 and 2008 World Congresses against Sexual Exploitation of Children as well as the outcome of other international conferences on this issue;

(b) Establish more Children's Houses in all counties and provide them with adequate human and financial resources;

(c) Ensure that exploited and abused children receive help as soon as possible;

(d) Ensure that knowledge of sexual exploitation and abuse is integrated into training programmes of professionals working with and protecting children;

(e) Expedite the examination of cases of sexual abuse in line with the 14-day statutory deadline.

(Committee on the Rights of the Child, 2010)

The Committee's comments on the situation of the rights of the child concerning sexual exploitation and abuse communicate many advances legally and administratively. There are, however, challenges with resources and competence in the implementation of certain measures, especially that the deadline for examination of reported cases is often exceeded. There is no information about the magnitude of the issue in Norway, but since the Committee does mention the existence of a project to map the extent of abuse, the reader may deduce that the Committee would have addressed the extent had it been concerned by the outcome. The recommendations do not communicate anything about the political or societal context other than reflecting the comments.

5.5.3 Analysis of text concerning Russia

35. The Committee remains concerned about the large number of cases of sexual exploitation and abuse of children in the State party, and the lack of cooperation between the law enforcement agencies and the social system to prevent such offences or to rehabilitate victims of sexual violence and sexual abuse. The Committee is also concerned about the sexual abuse of children who belong to LGBTI groups because of their sexual orientation and gender identity.

36. The Committee recommends that the State party establish interdepartmental cooperation at the federal, regional and local levels, in particular between law enforcement agencies and social services structures in order to prevent the sexual exploitation and abuse of children and to provide timely and effective rehabilitation to victims of such crimes. The Committee also recommends that the State party take urgent measures to investigate all information relating to the sexual abuse of children, including LGBTI children, and prosecute and punish the perpetrators of such crimes under the relevant provisions of the Criminal Code.

(Committee on the Rights of the Child, 2010)

The comments made by the Committee illustrate a societal context where sexual exploitation and abuse is frequent and that the rights of the child in Russia concerning this issue is not being adequately attended to by the state. Describing the number of cases as “large” emphasizes the magnitude. Sexual exploitation and abuse has apparently been a recurring concern in the reviews by the Committee, as it “remains concerned about the large number of cases”. The Committee emphasizes the severity of the situation by using the word “urgent” to describe the need for measures. The magnitude of the systemic inadequacies and the lack of measures in place to combat the issue are further emphasized by recommending large-scale measures involving all levels of government.

5.5.4 Summary/comparison

The situation concerning child sexual exploitation and abuse in Norway and Russia are very different when it comes to handling the issues, something the Committee for the most part manages to reflect. The comparative perspective is communicated by successful reflections of both severity and magnitude of the issues. The differences in

magnitude concern for the most part the state efforts to prevent and identify sexual exploitation and abuse, and the treatment of victims.

Unfortunately there are no studies mapping the extent of sexual exploitation and abuse in Russia, but is assumed to be widespread. As the Committee recognizes in its comments as a positive measure, Norway did conduct such a study, however the Committee failed to mention anything of the result. The study is referred to in 4.5 in this paper and shows that over one in five of Norwegian youth have experienced at least one minor sexual assault. This finding can be interpreted as an indication of attitudes that are prevalent in society. In order to combat such attitudes they need to be addressed, which the Committee fails to do in this instance.

There are uncertainties concerning the true number of cases of sexual exploitation and abuse in Russia, but the estimates are that there are many, something the Committee communicates. However, in the absence of any certain numbers the Committee could have compensated by mentioning the areas and settings in which child sexual abuse is committed in order to emphasize the degree to which these issues permeates the Russian society. They already mention LGBTI children being abused on the basis of their sexual orientation. In the same way the Committee could mention the sexual abuse of children by children in orphanages as indicative (Coalition of Russian NGOs, 2013). Also the Committee fails to comment on societal attitudes and the low recognition of sexual abuse in Russia.

5.6 Summary

The analyses of the frequency distribution of negative, neutral, and positive terms used to describe the contexts in Norway and Russia are presented in tables 1 and 2 respectively. The Committee uses negative terms more often in their comments and recommendations when describing the Russian context than in describing the Norwegian context, while more positive terms are used in in the comments and recommendations for Norway than Russia. This categorization and quantification of terms provides an indication of how the Committee assesses the severity and magnitude of the issues challenging the rights of the child in the respective countries. This is useful when comparing what the Committee communicates with the contextual background.

Table 1: Frequency distribution of Norway

	Negative	Neutral	Positive
1)	1	1	
2)			4
3)	2		2
4)	2		4
Total	5	1	10

Table 2: Frequency distribution of Russia

	Negative	Neutral	Positive
1)	2		
2)	13	2	
3)	3		
4)	2		
Total	20	2	0

This comparison has been done concerning the categories independent monitoring, violence against children, abuse and neglect, and sexual exploitation and abuse.

The overall impression is that the comments and recommendations from the Committee for the most part manage to reflect the magnitude and severity of the issues that are brought up. This has been done in a way that provides a comparative perspective that makes it possible the reader with differentiate between the two countries without having prior knowledge of the national contexts. The exception is the category of abuse and neglect where the Committee has made crucial omissions communicating the differences in the national context concerning abuse and neglect as smaller than they really are both in terms of magnitude and severity.

6.0 Discussion

The purpose of the analysis and the comparison is to determine whether the criticism the Committee directs at state parties in the periodic reviews reflect the national contexts where the rights of the child can be strengthened. But, is this important? In what way are the findings useful?

The findings from the analysis and the comparison in this paper largely disagree with Neumann’s critique of the Committee’s comments and recommendations in that I find the texts to reflect relative differences to a larger extent. That, however, does not

necessarily imply that I disagree with her conclusions. Neumann argues in her article that the comments and recommendations given by the Committee contribute to a homogenization of the living conditions of the child. If the purpose of the Committee is to help conditions for children and their rights to improve, then the comments and recommendations of the Committee need to reflect the contexts of the respective countries. Neumann warns that mechanisms that contribute to make challenges in Norway bigger than they really are and the challenges in Uganda smaller (Neumann, 2014).

The importance of the criticism reflecting the context can be explained through the spiral model. As a weak institution without instruments of enforcement, like placing sanctions, over non-complying states, the CRC uses alternative channels to influence member states to change their domestic behaviour. The CRC relies on advocacy networks to apply pressure on states to make them comply with their commitments concerning the rights of the child. Likewise the advocacy networks need the Committee to provide assessments of the domestic situation. Although the Committee cannot enforce any sanctions it enjoys normative authority within the rights of the child by being the reviewing body of the UN. The contents in the concluding observations are therefore important tools for the advocacy networks. If the comments and recommendations does not reflect the national context or the Committee omits important issues, then the arguments of the advocacy groups will weigh as heavily.

In this dynamic of co-dependency between the CRC and advocacy networks the concluding observations act as catalysts and amplifier for pressure towards governments. Gran and Aliberti (2003) find relating to this point that there is evidence of states establishing offices of children's ombudsperson after they have signed the CRC. Whether this applies for Russia is left unsaid, but the Committee's comments and recommendations open up for strengthened pressure toward the Russian government to reform the structure of the Presidential Commissioner for Children's Rights. Reversely the Committee's comments and recommendations concerning abuse and neglect may hinder the work of the advocacy networks in that they do not reflect the context sufficiently.

Given that it is in the interest of the Committee and the advancement of compliance to the rights of the child the incentives for the Committee to deliver concluding observations that reflect the contexts of the respective countries. A point of further research could therefore be to examine why the concluding observations vary in the way they reflect relative differences in magnitude and severity, and the inclusion of comparative perspectives. On this point a review of the review process could lead to improvements. The review process is governed by a strict set of sequenced interactions between the Committee, state party and civil society subjected to a tightly managed timeframe. The conditions under which state parties are assessed by the Committee are hectic and leaves few possibilities for flexibility where needed. This leaves a very limited time for the Committee to cover and assess large and complex issues. A study of how this affects the quality of the comments and recommendations seems therefore in place.

7.0 Conclusion

In this thesis I have analysed the Committee on the Rights of the Child periodic reviews of countries Norway and Russia in order to determine how the Committee manages contextualise the severity and magnitude of the issues it comments. The results of the textual analysis were then compared to the contextual background of the respective countries. This showed that the Committee for the large part manages to communicate the respective national contexts and the magnitude and severity of the issues commented. The Committee also includes, for the most part a comparative perspective. Lastly I argued for why such an analysis is useful in order to understand how the Committee contributes to strengthened CRC compliance.

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