ABSTRACT

Whether human rights treaties produce an impact on the ground is a highly contested question in international law. I engage in this debate in the present thesis offering a qualitative study of the implementation of the UN Convention on the Rights of Persons with Disabilities in Australia and Mongolia. The scholarship commonly understands human rights treaties in legalistic terms. Treaty outcomes are measured on the basis of the direct effects of their norms. State ratification and incorporation of treaty norms in domestic legal orders are perceived as the principal ways whereby human rights treaties penetrate into and transform domestic contexts. A common prescription for better treaty implementation is to increase their coercive enforcement. I call this view human rights instrumentalism and, in this thesis, argue that it offers a limited understanding of the role that the treaties play in national arenas.

The thesis illustrates that, in the years following the adoption of the Disabilities Convention in 2006, vibrant legal and policy developments have taken place in the two countries studied. Those laws and policies have typically embraced the international law. Yet, when tracing their lineage, the Convention’s effects are seen to be largely indirect to those domestic legal reforms. At the same time, the research identifies a significant non-legal impact of the Convention, which, regardless of the particular norms of the treaty or domestic incorporation thereof, profoundly affects the social fabric of Australia and Mongolia. The thesis argues that such an outcome emanates essentially from the symbolic or political power of the treaty, and describes the subtle ways in which the Disabilities Convention functions as a social symbol in the two domestic contexts.