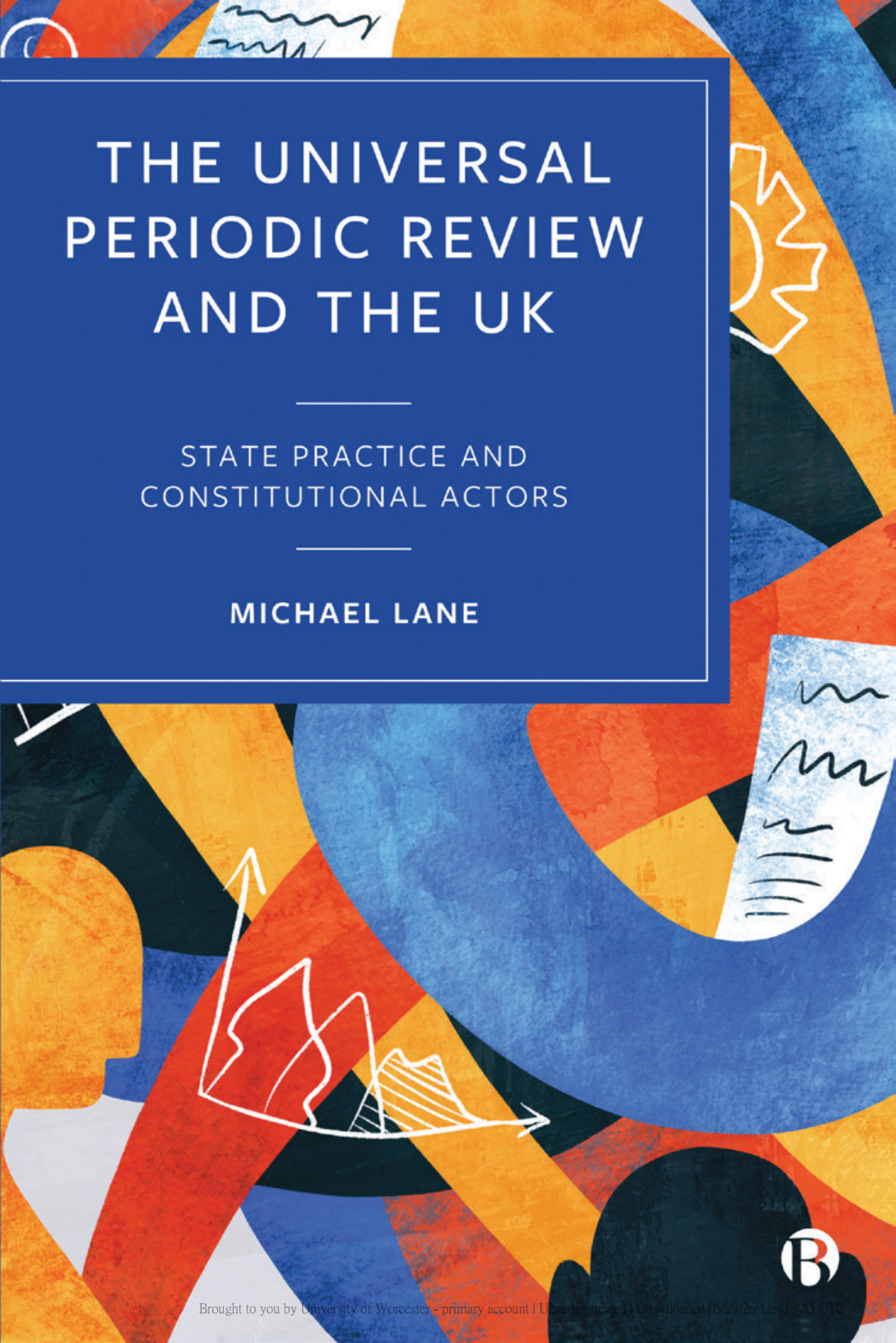
THE UNIVERSAL PERIODIC REVIEW AND THE UK

STATE PRACTICE AND CONSTITUTIONAL ACTORS

MICHAEL LANE



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State Practice and Constitutional Actors

Michael Lane

With a Foreword by
Gianni Magazzeni

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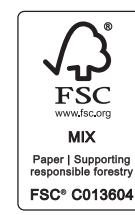

For Mom
Judith Sylvia Lane (1952–2022)

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List of Abbreviations

CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CID	Cruel, inhuman and degrading treatment
COE	Council of Europe
CPED	Convention for the Protection of All Persons from Enforced Disappearance
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil society organization
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EEG	Group of Eastern European States (UN Regional Group)
EHRC	Equality and Human Rights Commission (UK)
EU	European Union
FCDO (FCO)	Foreign, Commonwealth and Development Office (formerly the Foreign and Commonwealth Office) (UK)
GRULAC	Latin America and Caribbean Group (UN Regional Group)
HRA 1998	Human Rights Act 1998
HRC	Human Rights Council
IBA	International Bar Association
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

JCHR	Joint Committee on Human Rights (UK)
LSEW	Law Society of England and Wales
MoJ	Ministry of Justice (UK)
MP	Member of Parliament
NGO	Non-governmental organization
NHRI	National human rights institution
NMIRF	National Mechanisms for Implementation, Reporting and Follow-up
OHCHR	Office of the High Commissioner for Human Rights
SNAP	Scotland's National Action Plan for Human Rights
TMWG	Treaty Monitoring Working Group
UDHR	Universal Declaration of Human Rights
UKSC	UK Supreme Court
UNGA	UN General Assembly
UNSC	UN Security Council
UNTB	UN treaty bodies
UPR	Universal Periodic Review
UPR I	UPR Cycle 1 (2008–2011)
UPR II	UPR Cycle 2 (2012–2016)
UPR III	UPR Cycle 3 (2017–2022)
UPR IV	UPR Cycle 4 (2022–2027)
WEOG	Western European and Other States Group (UN Regional Group)

About the Author

Michael Lane is Lecturer in Law at the University of Worcester, UK. His research concerns the relationship between international human rights law and institutions and domestic legal systems. He is particularly interested in the United Nations' human rights mechanisms. His research has been published widely, and he regularly contributes written reports to United Nations bodies and parliamentary inquiries. He is also actively involved in consultancy and capacity building with individuals and organizations to help them engage with the international human rights mechanisms.

Foreword

Gianni Magazzeni
Former Senior UN/OHCHR
Official and UPR Chief (2017–2023)

The Universal Periodic Review (UPR) of the UN Human Rights Council (HRC) is, on the one hand, the best tool devised by Member States to domesticate international human rights norms and to incorporate them into coherent laws and practices. On the other hand, after four cycles, the UPR remains the least known, understood and utilized tool of the HRC.

With the creation of the HRC, in 2006, the UPR emerged as an effective cooperative mechanism meant to review the fulfilment of states' human rights obligations and commitments every 4.5/5 years. There is no doubt that the UPR brought together all existing human rights mechanisms and procedures, including a review – bottom up – of the human rights conditions on the ground. With almost 100 per cent participation of states so far, at the highest level, and with delegates in the reviews representing all branches of the government and key state institutions, the UPR delivers an average of 280 recommendations per state under review, which are made by some 105 recommending states.

It is important to note that, while a peer review and state-driven, the UPR takes into account the concluding observations of treaty bodies, recommendations of special procedures mandate holders (SPMHs), inputs from the UN system in-country, commissions of inquiry, fact finding missions, Office of the High Commissioner for Human Rights (OHCHR) field presences, regional human rights mechanisms (for example, the Council of Europe), national human rights institutions (NHRIs) and civil society organizations (CSOs), with the core objective of identifying gaps in implementation, reflected in two official documents complementing the report on the state. The voice of CSOs is heard loud and clear during informal pre-sessions organized by UPR Info one month before the UPR Working Groups start their reviews, and they are well attended by delegates.

At variance with other mechanisms, the UPR provides an opportunity for states to consider each recommendation received which – following broad

consultations within the government, with state entities and other national stakeholders, lasting 3–4 months – leads to sovereign decisions on those recommendations the state is ready to accept in the HRC UPR adoptions (under item 6 of its Agenda).

Clearly, the UPR creates many entry points for action by the state, with the support, when required, of the international community and the UN system in-country. The importance of the UPR in advancing human rights at country level has been recognized by UN Secretary-General António Guterres, most prominently in his Call to Action for Human Rights, in 2020, and the concomitant request made to the OHCHR to develop a UPR practical guidance document detailing what steps could be undertaken by all heads of UN missions, worldwide (resident coordinators, humanitarian coordinators and special representatives of the Secretary-General), before, during and after the reviews, so as to maximize the use of this mechanism and advance human rights at country level.

Two years later, in 2022, a repository of good practices by the UN system to make progress on the Sustainable Development Goals (SDGs) through the UPR was jointly issued by the United Nations Development Programme, the Development Coordination Office and the OHCHR. In it, 18 country contexts are referred to where UPR recommendations accepted by the state allowed different UN entities, in cooperation with the government and other stakeholders, to address concerns such as trafficking, migration, torture, capital punishment, gender-based violence, discrimination, shrinking civic space, protection of human rights defenders, statelessness, and in advancing freedom of expression or setting up NHRIs or National Preventative Mechanisms under the Optional Protocol to the Convention Against Torture. While a great deal remains to be done in most of these country contexts, the repository outlines the potential of the UPR in delivering results that translate international norms into concrete action, nationally.

For its part, since the beginning of the third cycle, the OHCHR has developed new tools to facilitate the implementation of UPR recommendations – starting with a letter addressed by the UN High Commissioner for Human Rights to all Foreign Ministers, once the UPR outcome was adopted in the Human Rights Council. The letter contains an annex with OHCHR observations 'with a view to follow-up action in close cooperation with national entities and other stakeholders'. It includes a link to the matrix of thematically clustered recommendations, starting with those supported by the state and ending with those noted.

The matrix – a Word document available on-line – allows the rapid search of any issue/concern, resulting in a listing of all relevant recommendations, indicating clearly the state that made them, the position of the state under review on each of those recommendations, as well as the link to the relevant SDGs. To note, each High Commissioner's letter to a Foreign Minister refers

specifically to the UPR Practical Guidance and the Repository of UN Good Practices referred to earlier.[1]

All governments that have not yet done so are encouraged to establish a national mechanism for implementation reporting and follow up (NMIRF); to develop an implementation plan linked to progress on the SDGs; and to submit (or continue to submit) a mid-term report two years after the adoption of its outcome, detailing implementation efforts as well as challenges to implementation – including the need for possible assistance.

The HRC UPR offers the best way to fulfil the human rights provisions of the UN Charter and to ensure the realization of its purposes and principles, especially preserving peace and security while ensuring development and thus the attainment of the SDGs. The UPR is all about prevention and about addressing the root causes of violations early on, and well before crises degenerate into conflicts and/or humanitarian emergency situations.

With its regular check-up on the status of the human rights health of each state,[2] the UPR results in a detailed listing of what each state needs to do to become healthy and more resilient by ensuring growing compliance with its international human rights obligations and commitments. For the UN to succeed in its mission during these challenging times, it is imperative to stop talking about human rights implementation and focus on how best to do it – realistically, making use of available tools and resources – and on how Member States, other stakeholders and the UN system can work together to achieve that end.

The United Nations Sustainable Development Cooperation Framework – signed every five years by the UN Resident Coordinator and the Government – is a unique opportunity for each United Nations Country Team to review the matrix of UPR recommendations received by the state, to identify which UN Entity 'owns' which recommendation – taking into account its specific mandate – and then act upon those deemed most relevant in terms of follow up. Indeed, incorporating into planning and programming key accepted UPR recommendations on the rights of the child by UNICEF, on gender equality by UN Women, on advancing the rule of law by the UN Development Programme, on maternal health and rights by the UN Population Fund, on statelessness and internally displaced persons by the UN Refugee Agency, on education and freedom

[1] See https://www.ohchr.org/sites/default/files/Documents/HRBodies/UPR/UPR_Practical_Guidance.pdf, the repository at: https://www.ohchr.org/sites/default/files/2022-02/UPR_good_practices_2022.pdf and the new tools (HC letter, Matrix and Infographic) at: https://www.ohchr.org/en/hr-bodies/upr/documentation

[2] For more details, see my statement 'In Conversation with the Experts: The Future of the United Nations', organized by the Centre for Human Rights, College of Law, Birmingham City University, 27 January 2025.

of expression by UNESCO, on labour rights by the International Labour Organization, on corruption and drug use by the UN Office on Drugs and Crime, on the environment and climate change by the UN Environmental Programme, on health related issues by the World Health Organization, are examples of how the UN system, in close cooperation with OHCHR, could mobilize its resources and energies to achieve the SDGs based on human rights recommendations. As Amina J. Mohammed, UN Deputy Secretary-General, stated in an HRC High Level Panel, on 1 March 2023: 'the UPR is one of our most impactful instruments to promote human rights as part of development … The UN Development System and Resident Coordinators stand ready to support implementation of UPR recommendations and together advance the SDGs with human rights at their core'.[3]

Similarly, recommending states – especially when donors and members of the Organisation for Economic Co-operation and Development's Development Assistance Committee, the group of countries that provide over US$230 billion in official development assistance (ODA), could prioritize support for the implementation of their accepted recommendations made to states that are of priority for their own assistance. Various forms of South–South cooperation could also emerge among recommending states from the Global South and states under review. This would be a great step ahead in strengthening national protection systems and advancing human rights everywhere – thus appropriately marking the 20th anniversary of the HRC in 2026.

The UPR combines all the implementation efforts made in the past 60 years and needs to be used effectively at country level, not just formally in the Palais des Nations in Geneva. The enhanced implementation agenda of the fourth cycle of the UPR offers an opportunity for states to demonstrate greater accountability, and to lead by example, when it comes to following up at least to their own accepted recommendations.

For the UN to succeed in strengthening the human rights pillar of its Charter, and for peace and development efforts of the organization to rest on the solid foundations of respect for human rights and the rule of law, states will have to seriously ensure complementarity among human rights mechanisms and use the UPR as the main entry point for action in-country. This is so, simply because vetting by the Government remains a *conditio sine qua non* for going beyond study tours/trainings, and achieving concrete results, such as reforming laws, modifying practices, revising implementing regulations, standing orders, the content of manuals

[3] https://www.linkedin.com/posts/gianni-magazzeni-897998141_as-the-human-rights-council-hrc-started-activity-7208933968363012096-N9yM/

in the professional schools for judges, lawyers, prosecutors, police and prisons officials.

The focus must clearly be on addressing root causes, on prevention and thus on strengthening national human rights protection systems: denouncing violations is clearly essential, yet it cannot be an end in itself – it must be associated with required remedial action, as detailed in the UPR of each state.

Making use of existing ODA to implement accepted UPR recommendations made by the Development Assistance Committee members (even if capped at 1 per cent of total available ODA for each member), with the support of the UN system and national stakeholders, would probably slowly reverse current trends and provide fact-based evidence that respect for human rights is key to a more peaceful and prosperous world, based on the rule of law and respect for the UN Charter.

With over 120 million refugees/displaced, whose number never ceases to grow, living in camps, not for years but for decades, it is clear that investing more on human rights and implementing more UPR recommendations – especially those reflecting the concluding observations of treaty bodies or the advice of special procedures – are not only the right things to do, but they are also the smart things to do, allowing the international community, over time, to generate enough wealth and savings to confront with greater optimism the new existential challenges of our time.

Michael Lane's book *The Universal Periodic Review and the UK: State Practice and Constitutional Actors* fills, therefore, an important gap in the academic literature by detailing with clarity, competence and wisdom the various components of the UPR and its impact in a specific country context. The book looks at the external perspective, that is, the participation of the UK in the UPR, as well as at the internal perspective, that is, the role of the UPR in the UK, with an in-depth analysis of domestic actors and the three branches of government. The conclusions sum up well the book's main findings. They also elevate the UPR to a source of customary international law which may well create legal obligations, clarify accepted practice with respect to the interpretation of treaties, or identify legitimate expectations to be adjudicated in court, when certain strict conditions are met. These are important subjects that the author is encouraged to develop in a follow-on book, expanding on the crucial role of the judiciary in the UPR[4] and on the evident need to include the UPR as a required course in law schools – one that is essential to ensuring quality legal education for law graduates, everywhere.

[4] See also Michael Lane and Frederick Cowell, 'Using Universal Periodic Review Recommendations in UK Courts' 29 *Judicial Review* 2024.

Preface

The primary inspiration for this book comes from my PhD thesis which I completed in 2023 at Birmingham City University, UK. As part of that project, I was extremely fortunate to be funded by the Arts and Humanities Research Council's Midlands4Cities Doctoral Training Partnership [AH/R012725/1]. This scheme has continued to benefit me, importantly by enabling me to draw from UK Research and Innovation's 'Open Access Fund for Long-form Publications', allowing this book to be published open access. Words cannot do justice to the superb guidance and supervision I received during my PhD from Professor Jon Yorke, Professor Elizabeth Wicks and Dr Amna Nazir. Each of you uniquely contributed to my journey and to my development as a researcher. Thank you, also, to my external examiners, Professor Alice Donald and Professor Sangeeta Shah. Each of your voices continued to guide me as I wrote this book.

I have also been privileged to meet and work with many colleagues from the academy who have generously and selflessly spared their time and energy to help me develop and hone the ideas that are presented in this book. I cannot mention everyone here, of course. I am indebted to all colleagues at the University of Worcester, both academics and support staff, for enabling me to complete this work. I would like to extend my thanks to Dr Chris Monaghan whose mentorship has been invaluable for my confidence and development as a researcher, as it has for many colleagues in the School. Thank you, also, to Michelle Clarke, Head of Law, for the kind and considered management and for continuing to support research in the School. Finally, thank you to Dr Anna Muggeridge for facilitating the Institute of Arts and Humanities 'monograph discussion group' which has inspired me to refine my writing and engage with work of colleagues from outside my discipline. I would like to thank those colleagues from other institutions, notably the members of the Universal Periodic Review (UPR) Academic Network, but particularly Dr Alice Storey, Dr Amna Nazir, Dr Damian Etone and Dr Frederick Cowell. Thank you, also, to the many other academics whose offered their time, insights and opportunities during my PhD and whilst writing this book.

Beyond the academy, several organizations and individuals have thoughtfully shared their insight and expertise. Colleagues at UPR Info, in particular Nicoletta Zappile, Mona M'Bikay and Gianni Magazzeni, have been and continue to be very generous with their time, helping myself and other academics to take our research beyond theory and into practice. In Parliament, Westminster, special thanks go to the staff of the House of Commons and House of Lords libraries, and those of the Joint Committee on Human Rights. Thank you to the many inspiring individuals from human rights organizations across the UK and abroad who I have spoken to over the years. And thank you to the incredible team at Bristol University Press, particularly Grace Carroll, Zoe Forbes and Helen Davis, as well as those who peer reviewed my proposal for this book and the draft manuscript.

Finally, thank you to my family and friends, particularly my wife, Steph, who has been a rock and honourably borne the moaning, stress and headache that came with me undertaking the PhD and writing this book.

Two chapters of this book draw on articles I have published previously. Chapter 4, 'Theorizing the Universal Periodic Review's Impact: The Role of Domestic Actors', develops arguments I originally published in 'The Universal Periodic Review: A Catalyst for Domestic Mobilisation' (2022) 40 Nordic Journal of Human Rights 507. Chapter 6, 'The Universal Periodic Review and the Legislature' develops an early piece on the engagement of the Joint Committee on Human Rights with the UPR: 'The UK Joint Committee on Human Rights and the United Nations Universal Periodic Review: A Critical Appraisal' (2022) 14 *Journal of Human Rights Practice* 928.

The content of this book, to the best of my knowledge, is accurate as of 1 June 2025. Though many kind individuals have contributed to this project, all errors remain my own.

Those who follow the UPR closely will be aware that there have been some important, recent developments which I have not been able to incorporate here. These include the USA's withdrawal from the UN Human Rights Council and its ceasing of participation as a reviewer at the UPR. As I write, it remains unclear whether the USA will engage with its own review later in 2025. If it does not, it will be only the second time a state has refused to cooperate with the UPR (the other occasion was Israel during the second cycle). There have also been developments with respect to the UK's UPR. I was recently invited to give evidence for Parliament's Joint Committee on Human Rights which leads me to believe that Parliament may come to be more actively involved in the UPR. Also, as I write this, the Government has just published the UK's fourth cycle mid-term report. These events do not receive attention in the book, but I am confident that the analysis provided here remains and will remain pertinent, at least for the foreseeable future.

I have tried to write clearly and straightforwardly with the view of maximizing the accessibility of the text. My hope is that this book, or at the very least parts of it, will be a useful point of reference for those who research the UPR, including university students and those who are actively engaged in the process both in the UK and beyond.

Michael Lane, Birmingham, UK,
27 August 2025

1

Introduction

Every four-and-a-half years, a UN member state will undertake the Universal Periodic Review (UPR). The UPR sees the state enter into a dialogue with its peers on its human rights situation, and it will receive its share of praise and approval, but also critique and censure, as well as recommendations on how human rights might be improved. This unique, cyclical ritual is the only human rights review mechanism with universal coverage – all UN member states are expected to engage with the UPR. And, with only a few notable exceptions, *all* UN member states have engaged with the UPR across the three cycles to date, and they continue to do so for the fourth cycle which, at the time of writing, is ongoing. The public audit has facilitated transparency, tracking and documenting the global human rights picture for nearly two decades. It has emboldened civil society, stimulating domestic and transnational coalitions across the world. Yet, despite these feats, the precise value of the UPR remains the subject of debate. Being state led, the UPR is vulnerable to politicization. States can (and have) used the process as an opportunity to compliment allies and denounce foes (sometimes without regard to human rights at all). Its reliance on states' cooperation and goodwill means that, while all might feel compelled to engage, arguably only those states that take the process seriously seek to benefit. It is not a surprise, then, that research on the UPR has proliferated. Since its inception, it has been the subject of various monographs, edited collections and journal articles, and dedicated scholarly communities have emerged. Academics from across disciplines have sought to interrogate this peculiar mechanism with the view of understanding whether and to what extent it has been a positive step in the promotion and protection of human rights.

The aim of this book is to better understand the actual and potential impact of the UPR in states. It is an interdisciplinary text which draws on theory from law, political science and international relations to interrogate various empirical and legal questions. At the outset, it is important to clarify that this book is not so much about the substance of international human rights law (questions about what human rights are or should be).

Rather, its focus is on the mechanisms, processes and effects of this law and the institutions designed to oversee its implementation. Simply, this book is about *what international human rights law does*, with a focus on the UPR. The book emphasizes looking at this issue from an external and internal perspective. The former involves observing states (or, more accurately, their governments) *at the UPR* including their participation with the process, the outcome of the review and the extent that they implement recommendations. This book's first contribution is the creation of a framework for assessing a state's practice at the UPR (Chapter 2). Assessments of states' UPRs are a feature of the existing literature and help shed light on the extent that the mechanism is achieving its aims of promoting and protecting human rights globally. Yet, this book suggests that how these assessments are carried out, and what standards states are held against, remain inconsistent. It is therefore difficult to reliably observe the success of the UPR. Building on the work of Kathryn Sikkink, the book seeks to provide researchers with the methodology and tools with which to undertake more comprehensive and rigorous assessments of states at the UPR and enable us to paint a more accurate picture of the mechanism's success. A case study of the UK's four UPRs to date (2008, 2012, 2017 and 2022) demonstrates how to deploy this new framework in practice (Chapter 3).

On the other hand, the internal perspective relates to the UPR *in the state* and seeing how the mechanism influences its constituent parts. The second contribution of this book is an enhanced understanding of the factors that affect the UPR's impact in this way. It suggests that the UPR has the potential to shape a state's human rights law and practice when its constitutional actors – the executive, legislature and judiciary – engage with the process and its recommendations. Drawing on international relations theory and existing empirical research, it is argued that the UPR is capable of providing these domestic actors (and indeed others) with important opportunities, preferences and leverage to inform and legitimize decision-making on human rights issues (Chapter 4). Seeing whether domestic actors in the UK actually deploy the UPR in those ways is an opportunity to query the factors that contribute to or hinder the mechanism's impact on the state's law and practice (Chapters 5 to 7). This exercise reveals, inter alia, the importance of domestic actors' knowledge, understanding and perception of the UPR and its value; the reception of international human rights law via the state's constitution; actors' capacities and resources; adequate accountability processes; and adverse perceptions of international human rights mechanisms.

To these ends, this preliminary chapter provides the necessary context to the study, namely an introduction to the UPR, a discussion and justification of the case study, and a brief overview of each chapter.

What is the Universal Periodic Review?

The UN Human Rights Council (HRC), established in 2006, is the primary entity of the UN responsible for promoting and protecting human rights across its member states. Its introduction came with the abolition of the UN Commission on Human Rights, a body criticized for its failure to properly respond to human rights situations, its selectivity and politicization.[1] The publication of *In Larger Freedom* by the former UN Secretary-General, Kofi Annan, provided much impetus for the HRC's introduction. Annan considered the Commission to have a 'credibility deficit' that cast 'a shadow on the reputation of the United Nations'.[2] It should, he considered, be replaced 'with a smaller standing Human Rights Council', that 'would accord human rights a more authoritative position, corresponding to the primacy of human rights'.[3] Following the World Summit in September 2005, these proposals came to fruition. As part of its development, reformers sought to ensure that the HRC would address the areas where the Commission had failed – particularly in relation to its selectivity and double standards.[4] To achieve this, one of the HRC's first tasks, for which a working group was established,[5] would be to determine the modalities of the new UPR. Annan was key to the UPR's introduction, elaborating early visions of the process in a speech following the publication of *In Larger Freedom*. The Council, he suggested, would have 'an explicitly defined function as a chamber of peer review. Its main task would be to evaluate the fulfilment by all States of all their human rights obligations. This would give concrete expression to the principle that human rights are universal and indivisible.'[6]

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1 On the development of the Human Rights Council and the failures of its predecessor, see Rosa Freedman, *The United Nations Human Rights Council: A Critique and Early Assessment* (Routledge 2013); Meghna Abraham, *Building the New Human Rights Council: Outcome and Analysis of the Institution-Building Year* (Friedrich-Ebert-Stiftung 2007); Patrizia Scannella and Peter Splinter, 'The United Nations Human Rights Council: A Promise to Be Fulfilled' (2007) 7 *Human Rights Law Review* 41.

2 Kofi Annan, 'Report of the UN Secretary-General: In Larger Freedom: Towards Development, Security and Human Rights for All' (2005) UN Doc A/59/2005 para 82.

3 ibid.

4 Nigel Rodley, 'UN Treaty Bodies and the Human Rights Council' in Helen Keller and Geir Ulfstein (eds), *UN Human Rights Treaty Bodies: Law and Legitimacy* (Cambridge University Press 2012) 325; Marianne Lilliebjerg, 'The Universal Periodic Review of the UN Human Rights Council – An NGO Perspective on Opportunities and Shortcomings' (2008) 26 Netherlands Quarterly of Human Rights 311, 311.

5 HRC, 'Resolution 1/103 Adopted by the HRC: The Universal Periodic Review' (2006) UN Doc A/HRC/DEC/1/103.

6 Kofi Annan, 'Addendum to In Larger Freedom: Towards Development, Security and Human Rights for All Report of the Secretary-General' (2005) UN Doc A/59/2005/Add.1 para 6.

These proposals were realized in 2006 with the creation of the UPR.[7] Resolution 5/1 in 2007 subsequently established the modalities of the UPR which sees all 193 UN member states participate every four-and-a-half years in an interactive dialogue with one another to examine their human rights performance.[8] On only one occasion has a state failed to engage with the review process. Israel, in 2013, initially boycotted its review, citing the HRC's bias and selectivity, but subsequently resumed cooperation and its review took place later that year. To date, this is the only example of a state intending to disengage from the review itself (though, at the time of writing, there is concern that the USA, following its refusal to participate in the HRC, will seek to do the same). There are, however, examples of disengagement with other parts of the UPR process. Cabo Verde, for instance, failed to submit a national report for its first cycle review. More recently, in 2021, Myanmar's delegation failed to attend the adoption of its third cycle UPR report. The same occurred in 2025 with Nicaragua's fourth cycle review. Notwithstanding these isolated incidents, we have seen almost universal engagement with the UPR.

To fully appreciate the UPR's role and function, the following sections detail the UPR process and situates it within the wider international framework.

The basis of review: international human rights

The basis of states' UPRs is the corpus of international human rights law that has emerged primarily since the formation of the UN in 1945: the UN Charter, the Universal Declaration of Human Rights, treaties to which the state is a signatory, any voluntary commitments made by the state, and applicable humanitarian law. The first three of these, owing to their importance in the international human rights framework, necessitate some elaboration.

The Charter is the foundational treaty of the UN.[9] It makes numerous references to the promotion and protection of human rights across states and emphasizes the importance of 'cooperation' between them to realize these goals.[10] The notion that states should work together is equally clear through the use of language in the Preamble, such as 'neighbours', 'unite', 'common interest', and advancement of 'all peoples'.[11] These ideas, of states'

7 UNGA, 'Resolution 60/251 Adopted by the UNGA: Human Rights Council' (2006) UN Doc A/RES/60/251.

8 HRC, 'Resolution 5/1 Adopted by the Human Rights Council: Institution-Building of the United Nations Human Rights Council' (2007) UN Doc A/HRC/5/1.

9 *Charter of the United Nations* (adopted 26 June 1945, entry into force 24 October 1945) 1 UNTS XVI.

10 ibid arts 55–56.

11 ibid, Preamble.

commonality and the need for collaboration certainly influenced the creation and operation of the UPR which, as discussed later, is guided by the principle of cooperation between states. States working together to advance rights is also evident in the UPR's modalities, for the process involves a peer-led interactive dialogue. In attempting to realize these principles in its operation, the UPR therefore contributes to the foundational aims of the UN.

The second instrument is the Universal Declaration of Human Rights (UDHR). Though not a treaty, and so not binding on states, the UDHR is considered to represent customary international law and the 'minimum rights' of which all people are entitled.[12] It is therefore considered the 'cornerstone of the international human rights system'.[13] The Declaration's prominence and significance led it to inform the development of subsequent human rights treaties, courts and international organizations.[14] For instance, the Declaration's ideals, set out in its Preamble, are clearly evident in the UPR's claim to universality, as discussed later.

Third are the nine core UN international human rights treaties and the myriad other regional instruments to which states are signatories to. The former are set out in Table 1.1, along with the dates of their establishment and the treaty body responsible for their monitoring. Regional instruments also emerged on the American and African continents with the American Convention on Human Rights in 1969, and the African Charter on Human and Peoples' Rights in 1981. In Europe, the establishment of the Council of Europe (CoE) brought with it the European Convention on Human Rights and Fundamental Freedoms ('Convention' or 'ECHR').

Once states sign a treaty, they are obliged to 'refrain from acts which would defeat the object and purpose' of it.[15] Ratification, on the other hand, involves a state giving its consent to be bound by the treaty's provisions.[16] States are also entitled to sign and ratify treaties with reservations, which have the effect of excluding or modifying the 'legal effect of certain provisions of the treaty in their application to that State'.[17] As outlined in Chapter 2, UPR

[12] Hurst Hannum, 'The UDHR in National and International Law' (1998) 3 *Health and Human Rights* 144, 154.

[13] Natalie Samarasinghe, 'Human Rights: Norms and Machinery' in Thomas Weiss and Sam Daws (eds), *The Oxford Handbook on the United Nations* (Oxford University Press 2018) 548.

[14] For instance, the ECHR, see the Preamble to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended).

[15] *Vienna Convention on the Law of Treaties* (adopted 22 May 1969, entered into force 27 January 1980) 1155 UNTS 331 art 18.

[16] ibid art 2(1)(b).

[17] ibid art 2(1)(d).

Table 1.1: The nine core UN treaties and their treaty bodies

Treaty name (abbreviation)	Date	Responsible treaty body
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	21 Dec 1965	Committee on the Elimination of Racial Discrimination
International Covenant on Civil and Political Rights (ICCPR)	16 Dec 1966	Human Rights Committee
International Covenant on Economic, Social and Cultural Rights (ICESCR)	16 Dec 1966	Committee on Economic, Social and Cultural Rights
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	18 Dec 1979	Committee on the Elimination of Discrimination against Women
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	10 Dec 1984	Committee Against Torture
Convention on the Rights of the Child (CRC)	20 Nov 1989	Committee on the Rights of the Child
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)	18 Dec 1990	Committee on the Protection of the Rights of All Migrant Workers and Members of their Families
International Convention for the Protection of All Persons from Enforced Disappearance (CPED)	20 Dec 2006	Committee on Enforced Disappearances
Convention on the Rights of Persons with Disabilities (CRPD)	13 Dec 2006	Committee on the Rights of Persons with Disabilities

recommendations concerning these international instruments, including calls for them to be signed or ratified, have been the most common across the three review cycles to date. States can, therefore, be reviewed against a full range of international human rights norms at the UPR.

Modalities

States are reviewed under the UPR approximately every four-and-a-half years. This period, known as a 'cycle', can be expressed as four phases. First, during the 'pre-review' phase, various documentation pertaining to the state under review is submitted to the UPR. These include: a 'National Report' submitted by the state following a 'broad consultation' with stakeholders; a 'UN Compilation' report based on individual UN body reports; and a 'UN Stakeholder Summary' report based on individual reports submitted by relevant stakeholders including non-governmental organizations (NGOs), and national human rights institutions (NHRIs). Second, during the working group, an assessment of the state under review's compliance with the aforementioned human rights instruments is undertaken. This is an interactive dialogue allowing for all member states to discuss the state under review and make recommendations – all of which is supported by a group of three state rapporteurs (the 'troika'). The working group then produces a report containing a summary of the interactive dialogue and a full list of recommendations. Third, at the post-review phase, the state under review is required to answer to the recommendations and detail the action that it intends to take for each one – either by 'accepting' or simply 'noting' them. Finally, at the implementation phase, the state under review is expected to implement its accepted recommendations.

Objectives and principles

Underpinning this process is a series of objectives and principles. Resolution 5/1 establishes several objectives of the UPR: the improvement of the human rights situation on the ground; the fulfilment of states' human rights obligations and an assessment of positive developments and challenges; the enhancement of state capacity; the sharing of best practices; support for cooperation on human rights; and enhanced engagement with other UN human rights bodies.[18] The first two of these will receive particular attention in the context of this book. They make it clear that the UPR is foremost expected to have *a positive impact* on human rights – the process is a means to that end. Yet, as will be explored in Chapter 2, precisely *how* we assess

[18] HRC, 'Resolution 5/1' (n 8).

or measure the UPR's success in each state requires consideration. The elaboration of a framework for this purpose will allow us to better evaluate the success of the mechanism in achieving its primary objectives.

On principles, Resolution 5/1 establishes thirteen,[19] two of which are especially pertinent in the context of this book: cooperation, and objectivity and transparency. On the former, the UPR is intended to be a 'cooperative mechanism based on objective and reliable information and on interactive dialogue'.[20] This primarily entails that engagement with the UPR, and the implementation of its recommendations, is reliant upon states' goodwill. As noted earlier in this chapter, working together to achieve shared interests is a fundamental aim of the UN Charter. Collective action was also re-emphasized in *In Larger Freedom*: 'the cause of larger freedom can only be advanced by *broad, deep and sustained global cooperation* among States. Such cooperation is possible if every country's policies take into account not only the needs of its own citizens but also the needs of others.'[21]

Thus, the UPR is intended to contribute to the fulfilment of the foundational aims of the UN. Cooperation also entails that UPR recommendations, unlike the treaties discussed earlier, are not binding on states in international law, and there are no legal consequences for non-implementation.[22] Hence, we might refer to the UPR as a 'soft law'

[19] Para 3 states that 'The universal periodic review should: (a) Promote the universality, interdependence, indivisibility and interrelatedness of all human rights; (b) Be a cooperative mechanism based on objective and reliable information and on interactive dialogue; (c) Ensure universal coverage and equal treatment of all States; (d) Be an intergovernmental process, United Nations Member-driven and action oriented; (e) Fully involve the country under review; (f) Complement and not duplicate other human rights mechanisms, thus representing an added value; (g) Be conducted in an objective, transparent, non-selective, constructive, non-confrontational and non-politicized manner; (h) Not be overly burdensome to the concerned State or to the agenda of the Council; (i) Not be overly long; it should be realistic and not absorb a disproportionate amount of time, human and financial resources; (j) Not diminish the Council's capacity to respond to urgent human rights situations; (k) Fully integrate a gender perspective; (l) Without prejudice to the obligations contained in the elements provided for in the basis of review, take into account the level of development and specificities of countries; (m) Ensure the participation of all relevant stakeholders, including non-governmental organizations and national human rights institutions, in accordance with General Assembly resolution 60/251 of 15 March 2006 and Economic and Social Council resolution 1996/31 of 25 July 1996, as well as any decisions that the Council may take in this regard'.

[20] HRC, 'Resolution 5/1' (n 8).

[21] Annan (n 2) para 18. Emphasis added.

[22] Though, a series of recommendations can show the emergence of new interpretations of existing human rights norms. See Frederick Cowell, 'Understanding the Legal Status of Universal Periodic Review Recommendations.' (2018) 7 Cambridge International Law Journal 164. Also see Chapter 7 on the legal status of UPR recommendations.

mechanism (albeit the helpfulness of this term is open to some debate).[23] For many, the UPR's cooperative approach is a source of contention. Damian Etone notes that during the UPR's establishment, sceptical views emerged over the value of a mechanism that is reliant on states' goodwill for its success. As he explains, '[a]ccording to the sceptics, the UPR is institutionally weak and needs to be overhauled or replaced by an entirely new institution that will undertake real scrutiny and hold states accountable for human rights violations'.[24] These critiques are not isolated to the UPR, however. Some feel that the UN system is collectively defective because of the absence of an international human rights court, or similar.[25] More ardent scholars would go so far as to claim international human rights law a complete failure.[26] Others, however, are more optimistic, and consider international human rights to be a success and effective in certain conditions.[27] Another pertinent question is, if cooperative mechanisms such as the UPR are seen to have an impact, then what factors or conditions account for this? Identifying these factors is necessary to analyse any barriers to impact and, indeed, alleviate these. Existing research has noted that the socialization,[28] and the impact of 'naming and shaming' may both be drivers of the UPR's impact.[29] Damian Etone, most notably, claims that cooperative human rights monitoring mechanisms such as the UPR can be 'at least as, if not more, effective than coercive mechanisms'.[30] This book furthers these debates by showing how cooperative mechanisms like the UPR, despite appearing weak, can further human rights protection through engagement from domestic actors such as governments, parliaments and courts.

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[23] For a recent discussion on the concept of soft law, see Álvaro Núñez Vaquero, 'On the "Soft Law" Concept' (Review of Administrative Law Blog 2025) https://realaw.blog/2025/03/14/on-the-soft-law-concept-by-alvaro-nunez-vaquero accessed 1 August 2025.

[24] Damian Etone, 'Theoretical Challenges to Understanding the Potential Impact of the Universal Periodic Review Mechanism: Revisiting Theoretical Approaches to State Human Rights Compliance' (2019) 18 Journal of Human Rights 36, 3.

[25] For example, Olivier de Frouville, 'Building a Universal System for the Protection of Human Rights' in William Schabas and Mahmoud Bassiouni (eds), *New Challenges for the UN Human Rights Machinery: What Future for the UN Treaty Body System and the Human Rights Council Procedures?* (Intersentia Ltd 2011).

[26] Eric Posner, *The Twilight of Human Rights* (Oxford University Press 2014).

[27] For a recent discussion of this and a rebuke of those critical of the efficacy international human rights, see Kathryn Sikkink, *Evidence for Hope: Making Human Rights Work in the 21st Century* (Princeton University Press 2017). Also see Chapter 2.

[28] Ryan Goodman and Derek Jinks, *Socializing States* (Oxford University Press 2013).

[29] Rochelle Terman and Erik Voeten, 'The Relational Politics of Shame: Evidence from the Universal Periodic Review' (2018) 13 Review of International Organizations 1.

[30] Damian Etone, *The Human Rights Council: The Impact of the Universal Periodic Review in Africa* (Routledge 2021) 3.

Another reason to suspect the UPR is effective in this way is on account of the principle of 'objectivity and transparency'. The process should be 'conducted in an objective, transparent, non-selective, constructive, non-confrontational and non-politicized manner'.[31] Transparency is achieved in practice as all the information on states' human rights practices collated through the UPR's three cycles to date is publicly available. In itself, the provision of this reliable, useful information on states' human rights practices can have a number of important effects. Simmons and Creamer explain that 'most theories of compliance with international law rely explicitly or implicitly on the availability of information about government activities and legal obligations'.[32] Indeed, as will be seen throughout this book, domestic actors can and do engage with the information and recommendations generated by the UPR and it can shape governments' priorities and inform domestic human rights action plans, stimulate parliamentary scrutiny, and inform judicial decision-making. By focusing on the domestic sphere as the zone of influence, this book shows how the transparency brought by the UPR has the potential to contribute to the promotion and protection of human rights.

Approach of the study

This book investigates the impact of the UPR through a case study of the UK. Before justifying the choice of jurisdiction, a word should first be spared on the general approach and methodology. Given the interdisciplinary nature of this project, the approach to data collection and analysis varies from chapter to chapter depending on the precise issue being interrogated. As such, discussions of methodology and methods are revisited throughout this book. The following is merely an introduction to the overarching theoretical frameworks and methods deployed to assess the impact of the UPR.

The issues explored herein relate broadly to the sphere of international empirical research, an area of increasing focus for legal scholars.[33] Research in this area aims to understand 'the conditions under which international law is formed and has effects',[34] and has been of particular importance in the context of human rights. The growing prominence of scholarship in this area reflects the enduring debate about the extent that international human

[31] HRC, 'Resolution 5/1' (n 8).

[32] Cosette Creamer and Beth A Simmons, 'Transparency at Home: How Well Do Governments Share Human Rights Information with Citizens?' in Andrea Bianchi and Anne Peters (eds), *Transparency in International Law* (Cambridge University Press 2010) 242.

[33] Gregory Shaffer and Tom Ginsburg, 'The Empirical Turn in International Legal Scholarship' (2012) 106 *American Journal of International Law* 1.

[34] ibid 1.

rights law and mechanisms shape state behaviour. As alluded to already, this debate has most certainly permeated scholarly debate on the UPR. This book contributes to that debate by analysing a state's engagement with the mechanism in two ways: from an *external* and *internal* perspective.

Part I focuses on the external perspective, and entails observing the state *at the UPR* and how it participates in the procedure, its compliance with the modalities, and the content and implementation of recommendations. As will be seen in Chapter 2, most of the research on states' UPRs to date has focused wholly or mostly on this dimension. Work to date has helped us understand and appreciate the value of the UPR as a distinct mechanism of international law. It has also revealed new insights about individual states by applying the UPR as a lens. Part II, then, looks at the internal perspective. This involves looking at the UPR *in the state* and the extent that it influences the key actors involved in upholding human rights – the executive, legislature and judiciary. Less research has focused on these matters, but it should nevertheless be a central concern if we are to fully grasp the impact of the UPR. International law and monitoring mechanisms like the UPR can affect states because they influence domestic politics.[35] The outcomes of the process including, importantly, its recommendations can filter down into the state, providing actors with leverage and tools to legitimize their decisions. Hence, while it is important to observe the state *at the UPR*, it is also necessary to look *within the state* at the actions of (and interactions between) domestic actors, principally the executive, legislature and judiciary. By querying the extent that these actors engage with the UPR to inform decision-making, and by examining the factors that contribute to or hinder this engagement, we can better assess the mechanism's impact. The case for understanding the impact of the UPR through domestic politics is fully elaborated in Chapter 4.

With respect to methods, the project was a mostly desk-based affair involving the systematic searching and analysis of publicly available documentation. This was supplemented by findings from existing research carried out by scholars and organizations (notably UPR Info). For the issues explored in Part I, relevant documents included all those held by the UN Office of the High Commissioner for Human Rights (OHCHR) relating to the UK's four UPRs. For Part II, documents included those published by government agencies and Parliament online or held by the National Archives, as well as law reports found on the Westlaw UK cases database.

[35] See notably Beth Simmons, *Mobilising for Human Rights: International Law in Domestic Politics* (Cambridge University Press 2009); Courtney Hillebrecht, *Domestic Politics and International Human Rights Tribunals: The Problem of Compliance* (Cambridge University Press 2014).

These documents, taken together, give insight into both the external and internal perspective of the UK's engagement with the UPR. For the most part, the data explored herein is empirical and qualitative and has been analysed thematically to identify prevailing themes and issues. The primary exception is in Chapter 7, on the judiciary and the UPR, which contains more doctrinal analysis of law reports.

Case study: the UK

This book focuses on a case study of the UPRs of the UK. A focus on a single jurisdiction enables us to draw rich qualitative insights into the impact of the UPR. Concentrating down on the state and on the key constitutional players and their interactions provides unique insights into the factors that contribute to or hinder the influence of international human rights domestically. It is worth noting here that the focus is on the central institutions of the UK state, namely the UK Government, Parliament (Westminster) and the judiciary. Significant attention is *not* given to the devolved governments and parliaments in Scotland, Northern Ireland or Wales (though some reference to the activities of these administrations is used to compare and critique that which is observed centrally).[36] This reflects the fact that foreign affairs and engagement with international human rights mechanisms is a reserved matter for Westminster.

The UK was deemed an appropriate case study for two reasons. Foremost, the findings of the research may be relevant for jurisdictions beyond the UK. The most obvious are those states that were colonies or territories of the former British Empire but are now independent. Many of these states continue to share the same legal and constitutional traditions as the UK, which is a common law jurisdiction and has a parliamentary (Westminster) system of government.[37] The second and perhaps more pertinent reason for focusing on the UK is that it has a complex and sometimes difficult relationship with international human rights law and institutions. Hence, the UK provides fertile ground for research on the interaction between the international and domestic spheres. This complex relationship is characterized foremost by a disconnect between how the UK presents itself to the international

[36] On the UPR and devolution in the UK, see Michael Lane, 'Navigating Devolution at the UPR: The Case of the United Kingdom' in Damian Etone, Amna Nazir and Alice Storey (eds), *Human Rights and the UN Universal Periodic Review Mechanism: A Research Companion* (Routledge 2024).

[37] JuriGlobe, 'Index of States and Their Corresponding Legal and Constitutional Systems' (2025) https://juri-globe.ca/en/allcategories-en-gb/3350-category-en-gb/index-of-states-and-their-corresponding-legal-and-constitutional-systems accessed 1 August 2025.

community and its domestic practice. On the one hand, the UK exhibits as a staunch defender, promoter and protector of human rights both internationally and domestically. Its international presence is particularly evident from the UK's role in developing the UPR and its comments at its reviews. During negotiations for the new mechanism, its government claimed it was working 'actively for an effective, balanced Universal Periodic Review' to 'deepen [its] dialogue with states and NGOs across the world'.[38] Indeed, statements given in the UK Parliament indicate that the Government was speaking with NGOs to make the UPR 'more effective', and wanted a process that was 'fair, impartial and efficient'.[39] Following its establishment, the UK continued to fund various UPR-related projects. Of particular significance is the funding of UPR Info – an NGO that supports civil society organizations and other stakeholders to engage with the UPR.[40] Furthermore, the UK provided assets between 2008 and 2012 toward the 'Voluntary Fund for Financial and Technical Assistance in the implementation of the universal periodic review' ('Voluntary Fund'), which enables the HRC to assist with states' implementation of their UPR recommendations.[41] Subsequently, at all four of the UK's UPRs to date, it has reiterated its support for the UPR and promoting and protecting human rights internationally.

The UK equally presents itself to its peers as committed to protecting human rights *domestically*. Unlike most states, the UK's constitution is not a single, written document – rather, it is an uncodified constitution which has developed piecemeal over centuries and comprises legislation, case law, constitutional principles and constitutional conventions. Historically, this has meant that human rights have not found their protection in a bill of rights or similar. Rather, as David Feldman explains, the UK adopted a civil liberties approach, entailing 'an undifferentiated mass of liberty', meaning that individuals are free from state interference, unless Parliament has legislated to the contrary. Feldman goes on to explain how

[38] Foreign and Commonwealth Office, 'Minister Challenges UN Human Rights Council to Give "Voice to the Voiceless"' (2007) https://webarchive.nationalarchives.gov.uk/ukgwa/20070605132043/, then http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029391629&a=KArticle&aid=1173560907556 accessed 1 August 2025.

[39] HC Deb 15 June 2006, vol 447, col 350WH.

[40] UPR Info, 'Vision and Mission' https://upr-info.org/en/about-us/vision-and-mission accessed 15 December 2025.

[41] OHCHR 'UPR Trust Fund' https://www.ohchr.org/EN/hrbodies/upr/pages/uprtrustfunds.aspx accessed 1 August 2025. The UK is one of 17 states to make contributions to the Voluntary Fund.

> [b]y virtue of the doctrine of parliamentary sovereignty, Parliament could encroach on freedom without legal constraint. No entrenched constitution or bill of rights restricted Parliament's power to interfere with freedom. People relied on their elected representatives in Parliament to ensure that any encroachment was authorized on in clearly particularized ways and for specified and democratically justified purposes. Enumerating and given special protection to certain fundamental freedoms was seen as unnecessary, and as potentially endangering freedoms which were not so specified.[42]

Human rights have nevertheless gained greater prominence under the UK constitution, foremost since joining the Council of Europe and assenting to the ECHR. The Human Rights Act 1998 (HRA 1998), which incorporates the Convention into domestic law, is the cornerstone of the UK's human rights framework and has significantly influenced the protection of rights domestically.[43] In addition to the ECHR, the UK is also a party to seven of the nine UN core human rights treaties.[44] Though these are not incorporated into domestic law like the ECHR, the UK has maintained that existing law is compliant with these treaties and that incorporation is not essential. Equally, unincorporated treaties have and do continue to inform UK law, as the ECHR did before the HRA 1998.[45] We can see, then, that throughout its four UPRs, the UK has continued to support the mechanism and, despite the UK's somewhat peculiar constitutional arrangements, it holds out to its peers as committed to protecting human rights both domestically *and* internationally.

The positive image the UK presents to the international community, however, can be contrasted with the domestic narrative and practice. There has been, and continues to be, negative political and public discourse around

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[42] David Feldman, *Civil Liberties and Human Rights in England and Wales* (Oxford University Press 2002) 70.

[43] There is abundant scholarship on the HRA 1998, but significant work on the Act includes Frederick Cowell, *Critically Examining the Case Against the 1998 Human Rights Act* (Routledge 2017); Nicolas Kang-Riou, Joe Milner and Suriya Nayak (eds), *Confronting the Human Rights Act 1998* (Routledge 2012). Also see Aileen Kavanagh, *The Collaborative Constitution* (Cambridge University Press 2024).

[44] The two unratified treaties are the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) and the International Convention for the Protection of All Persons from Enforced Disappearance (CPED).

[45] Christine Bicknell, 'International Law in Human Rights Cases Before the UK Courts' (*Exeter Centre for International Law* 2024) https://www.exeter.ac.uk/v8media/universityofexeter/collegeofsocialsciencesandinternationalstudies/lawimages/research/Bicknell_-_International_Law_in_Human_Rights_Cases_before_the_UK_Courts_-_ECIL_WP_2024-1.pdf accessed 1 August 2025.

human rights, particularly the HRA 1998, the ECHR, and the European Court of Human Rights (ECtHR).[46] Abolition or reform of the HRA 1998 has been an objective of both main political parties – the Labour Party and the Conservative Party – for much of the Act's existence. Despite being responsible for the Act, between its enactment and 2010 Labour governments regularly encroached upon human rights,[47] and proposed in 2007 to introduce a 'Bill of Rights and Duties' to 'make explicit the way in which a democratic society's rights have to be balanced by obligations'.[48] Between 2010 and 2024 various administrations demonstrated opposition toward the Act,[49] and there were two different government-commissioned reviews of the HRA 1998.[50] Former Prime Minister David Cameron (2010–2017) claimed the Act had benefitted criminals and terrorists and failed to protect human rights.[51] In his book *The Assault on Liberty*, Dominic Raab (Deputy Prime Minister and Justice Secretary, 2021–2023) claimed that 'the British tradition of liberty has been conflated as swathes of other comparatively minor grievances, claims and interests have been shoe-horned into the ever-elastic language of inalienable, unimpeachable and juridically enforceable rights'.[52] In 2022, following the ECtHR's decision against the UK to block the deportation of migrants to Rwanda, the Conservative Government was reportedly considering withdrawal from the ECHR.[53] The new Labour administration (2024–present) has also indicated its intention

[46] Frederick Cowell, 'British Exceptionalism towards the European Court of Human Rights' (2019) 23 *The International Journal of Human Rights* 1183.

[47] Keith Ewing, *Bonfire of the Liberties: New Labour, Human Rights, and the Rule of Law* (Oxford University Press 2010).

[48] Ministry of Justice, *The Governance of Britain* (Cm 7170, 2007–8 2007) 61 https://assets.publishing.service.gov.uk/media/5a7c2e19ed915d7d70d1d181/7170.pdf accessed 28 April 2025.

[49] Frederick Cowell, 'The Three Eras of Opposition to the Human Rights Act' (*UK Constitutional Law Association* 2022) https://ukconstitutionallaw.org/2022/11/14/frederick-cowell-the-three-eras-of-opposition-to-the-human-rights-act/ accessed 1 August 2025.

[50] Commission on a UK Bill of Rights (2011–2012), Independent Human Rights Act Review (2020–2021).

[51] Will Woodward, 'Cameron Promises UK Bill of Rights to Replace Human Rights Act' *The Guardian* (26 June 2006) https://www.theguardian.com/politics/2006/jun/26/uk.humanrights accessed 28 April 2025.

[52] Dominic Raab, *The Assault on Liberty: What Went Wrong with Rights* (Fourth Estate 2009).

[53] Andrew Sparrow, 'No 10 Revives Prospect of UK Leaving European Convention on Human Rights after Labour Calls Rwanda Plans "a Shambles" – as It Happened' *The Guardian* (15 June 2022) https://www.theguardian.com/politics/live/2022/jun/15/rwanda-flight-asylum-echr-priti-patel-boris-johnson-pmqs-uk-politics-latest accessed 28 April 2025.

to seek reform of the ECHR.[54] Similar animosity can be seen with respect to the various UN human rights mechanisms. Rhona Smith, on the UK and the UN special procedures, explains governments' approaches have been to '"shoot the messenger" with a spectrum of denial strategies used to counter any findings criticising government policy, laws and practice'.[55] Particularly notable in this respect was the UK Government's response to the 2019 report of the UN Special Rapporteur on Extreme Poverty, Philip Alston, which was to 'complain' to the UN and reject Alston's findings as 'barely believable'.[56] After a UN Committee on the Rights of Persons with Disabilities inquiry in 2016 found there to be 'grave and systematic violations' of disabled people's rights, the UK's Work and Pensions Secretary, Damian Green, claimed the inquiry was 'patronising and offensive'.[57]

In addition to the contentious narrative around human rights, there are concerns as to what extent human rights are protected in the UK. This is evident from across the UK's four UPRs. Many recommendations made by states at the UK's first UPR concerned the fulfilment of civil and political rights, particularly in relation to terrorism legislation and the detention of children.[58] These echoed the claims that, between 1997 and 2010, the Labour Government had eroded civil liberties in the UK as a result of numerous reforms to, inter alia, police powers, freedom of assembly and the detention of suspected terrorists.[59] Though some of these reforms had been reversed by the subsequent Conservative–Liberal Democrat Government between 2010 and 2015, recommendations received at the UK's second UPR in 2012 highlighted a raft of new issues. Most notably, the programme of welfare reform undertaken during this period (referred to as 'austerity') is said to have contributed to a regressive impact on the rights of those on lower incomes.[60] The resulting poverty experienced

[54] Mark Elliott, 'Justice Secretary Shabana Mahmood on Human Rights Reform in the UK and in Europe' (*Public Law for Everyone* 2025) https://publiclawforeveryone.com/2025/06/18/justice-secretary-shabana-mahmood-on-human-rights-reform-in-the-uk-and-in-europe/ accessed 1 August 2025.

[55] Rhona KM Smith, 'States of Denial: Rationalising UK Government Responses to UN Special Procedures' (2021) 21 *Human Rights Law Review* 458.

[56] Robert Booth, 'Amber Rudd to Lodge Complaint over UN's Austerity Report', *The Guardian* (22 May 2019) https://www.theguardian.com/politics/2019/may/22/amber-rudd-to-lodge-complaint-over-un-austerity-report accessed 1 August 2025.

[57] 'UN: "Grave" Disability Rights Violations under UK Reforms' *BBC News* (7 November 2016) https://www.bbc.com/news/uk-37899305 accessed 1 August 2025.

[58] Leanne Cochrane and Kathryn McNeilly, 'The United Kingdom, the United Nations Human Rights Council and the First Cycle of the Universal Periodic Review' (2013) 17 The International Journal of Human Rights 152.

[59] For a critique of New Labour's human rights record, see Ewing (n 47).

[60] Jonathan Portes and Howard Reed, 'Distributional Results for the Impact of Tax and Welfare Reforms between 2010–17, Modelled in the 2021/22 Tax Year' (2017)

by families, especially those with children, was an issue that underpinned various recommendations at the UK's second and third UPRs.[61] Paul Chaney, who conducted a discourse analysis of stakeholder reports for the UK's third review, equally found that the most prominent theme raised related to 'the negative human rights implications of inadequate funding of social policy'.[62] More recently, at the UK's fourth UPR, key themes that emerged concerned the status of the ECHR and HRA 1998, and the approach to immigration and asylum.[63]

These observations reveal a complex and sometimes troubled relationship with international law,[64] particularly international *human rights* law and its institutions, characterized by a disconnect between international commitments and domestic practice. It is for this reason the UK is a prime candidate for exploring the impact of the UPR. On the one hand, the study is an opportunity to reflect on whether an otherwise reluctant complier with international human rights engages differently (or not) with the UPR. These observations help us interrogate the extent of the UPR's contribution to the promotion and protection of human rights and may inform the future development of the mechanism. Moreover, an analysis of the UK's UPR will be welcomed at a time when the human rights framework in the state is under increasing scrutiny. The empirical findings of this book, in particular, will hopefully inform more careful conversations about the quality of human rights protections in the UK, and the extent that constitutional actors engage with human rights matters in their work.

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https://www.equalityhumanrights.com/sites/default/files/impact-of-tax-and-welfare-reforms-2010-2017-interim-report.pdf accessed 1 August 2025.

61 HRC, 'Report of the Working Group on the Universal Periodic Review: United Kingdom of Great Britain and Northern Ireland' (2012) UN Doc A/HRC/21/9 (UK Second Cycle Working Group Report). See recommendations at paras 110.39, 110.41, 110.42 and 110.101; HRC, 'Report of the Working Group on the Universal Periodic Review: United Kingdom of Great Britain and Northern Ireland' (2017) UN Doc A/HRC/36/9 (UK Third Cycle Working Group Report). See recommendations at paras 134.163, 134.164, 134.166, 134.167, 134.168, 134.192 and 134.191.

62 Paul Chaney, 'Human Rights and Social Welfare Pathologies: Civil Society Perspectives on Contemporary Practice across UK Jurisdictions – Critical Analysis of Third Cycle UPR Data' (2020) 25 *International Journal of Human Rights* 639, 646.

63 HRC, 'Report of the Working Group on the Universal Periodic Review: United Kingdom of Great Britain and Northern Ireland' (2022) UN Doc A/HRC/50/10 (UK Fourth Cycle Working Group Report). See recommendations as paras 43.38, 43.40, 43.43–46, 43.48–50 and 43.272–302.

64 Michael Lane, Nina Hart and Dane Luo (eds), *The United Kingdom and International Law: Contemporary Challenges and Prospects* (forthcoming Routledge 2026).

Overview of the book

This book comprises two main parts. Part I is concerned with the *external perspective*, which is about observing the state's practice at the UPR. As the title of Chapter 2 asks: 'Why and How Do We Assess State Practice at the UPR?' The main purpose of Chapter 2 is to review and recognize the importance of the literature on the UPR to date, but to also recognize its methodological limitations. Notably, researchers are not always explicit in the criteria they deploy to assess a state's practice. Drawing on recent work by Kathryn Sikkink, the chapter elaborates two overarching choices, namely that researchers might adopt 'empirical' or 'ideal' standards. It is argued that a truly holistic assessment of a state involves a consideration of *both* of these perspectives. By setting out precisely what these standards are, this chapter can be deployed by researchers in future projects as a reference point for assessing states' UPRs. Chapter 3 then deploys this framework to the UK. What we can see here is a state that engages conscientiously with the UPR *process*, but there is evidence to suggest that progress taken to implement these recommendations is limited. This is likened to 'ritualism', discussed extensively by Hilary Charlesworth and Emma Larking in their book on the UPR.[65] This exercise is useful in showing how the framework, developed in Chapter 2, can be applied in practice. It also identifies the challenges of undertaking this task, and the implications of this for the future development of the UPR process.

Part II of this book then focuses on the role of the UPR in the state – the *internal* perspective. Chapter 4 begins by defending this approach. The prevailing logic is that the UPR impacts states via acculturation: states change their behaviour due to social and cognitive pressures from their peers. However, it is shown here that acculturation may not offer the best lens through which to understand the UPR. Instead, it is argued that the UPR can influence domestic politics by providing actors with leverage and opportunities to advance and legitimize their claims. It therefore argues that to properly observe the actual and potential impact of the UPR, we can adopt an internal perspective and see what happens *in* the state. Building on this, Chapters 5 to 7 seek to understand the extent of the UPR's influence on the three constitutional actors in the state – the executive, legislature and judiciary. Once again, the UK proves a useful case study for this purpose. Each chapter examines how and whether these actors engage with UPR when exercising their functions and provides explanations for that engagement. Chapter 5 looks at the executive branch and the UK Government,

[65] Hilary Charlesworth and Emma Larking (eds), *Human Rights and the Universal Periodic Review: Rituals and Ritualism* (Cambridge University Press 2014).

particularly at how and whether the UPR has informed policy-making and dialogue with other domestic actors. A key discussion here is whether the current arrangements in government for coordinating the UPR process are sufficient. Chapter 6 turns to the legislature and the UK Parliament. We are increasingly appreciating the role of parliaments in implementing human rights and in the UPR itself, but there remain only a few studies examining how and why parliaments engage with the mechanism. This chapter provides a modest contribution to the scholarship by showing how the UPR has informed parliamentarians' scrutiny of the Government. Chapter 7, on the judiciary, examines how the UPR has informed judicial decision-making and the potential for judges to inform the process as stakeholders. It also looks at future uses of the UPR in the courtroom and the initiatives which have sought to increase judicial engagement. Chapter 8 is the conclusion to the book. This final chapter draws together the key themes of the book and highlights its scholarly and practical implications.

PART I

The External Perspective: The State at the Universal Periodic Review

2

Why and How Do We Assess State Practice at the Universal Periodic Review?

Part I of this book focuses on a state's Universal Periodic Review (UPR) from an external perspective: the state *at* the UPR. The starting point for this inquiry, in this chapter, is to consider *why* and *how* we assess state practice. It begins by recognizing that research in this area has proliferated and is valuable for helping us to understand states' receptivity to international accountability, and the potential and limitations of the mechanism. Nevertheless, this chapter highlights a divergence in approach of researchers, namely the standards or expectations against which states are assessed. Recognizing this, a framework for assessing state practice is developed, inspired by the work of Kathryn Sikkink,[1] which hopes to provide a standardized approach. It is shown how state practice might be compared against 'empirical' standards (the previous practice of the state or its peers) or 'ideal' standards (international human rights law, including the modalities objectives and principles of the UPR process). While both approaches are independently valuable, it is argued that a *holistic* assessment of a state at the UPR should deploy both standards. This chapter defends this approach and explains how it can be deployed by researchers. It proceeds as follows. The first section begins by exploring the value and limitations of existing research on state practice, including the divergence in standards adopted by researchers. The second section seeks to navigate this issue by understanding how we can assess state practice by making ideal and empirical comparisons. The third section, which forms the bulk of this chapter, explains the various aspects of state practice that can be

[1] Kathryn Sikkink, *Evidence for Hope: Making Human Rights Work in the 21st Century* (Princeton University Press 2017).

assessed, and lays out the standards to be used for this purpose by drawing on UN resolutions on the UPR, existing research and new empirical data.

The promise (and problem) of assessing state practice

The UPR has garnered significant academic interest and scholarship on the mechanism has proliferated. It has been the focus of several monographs, various edited collections and over one hundred peer-reviewed publications.[2] With a few exceptions, most of the research on state practice has taken an external perspective, focusing predominantly on the state *at* the UPR, rather than on the UPR-related activity *in* the state. This work typically involves an analysis of UPR documentation, statistical and thematic data pertaining to recommendations, and/or reflections upon the effectiveness, success or impact of the review process. Sometimes these studies look at a state's engagement with each stage of the UPR process, or they are limited to specific parts or actors, for instance the preparation of national reports,[3] or the role of non-governmental organizations (NGOs).[4]

The value of this research is self-evident, but it is useful to stand back and reflect on precisely what can be gained from assessing state practice. Foremost, this research fills an institutional lacuna. Without a formalized process of follow-up at the UPR, it is arguably difficult to determine the quality or efficacy of a state's engagement. Research which analyses states at the UPR therefore enables informed conclusions to be drawn about the success of the review and consider how this may be improved in subsequent cycles. It is also clear that domestic stakeholders find value in their state's performance at the UPR and will use this information to hold governments to account. As will be seen throughout this book, statistics of supported and noted recommendations have been cited in UK parliamentary debates, in evidence sessions with government ministers, and by the UK's national human rights institutions (NHRIs). Analysis of the UK's reviews, provided in this book, can therefore be taken up by domestic audiences to drive policy change. Beyond implications for the state under review, case studies can reveal

[2] According to the 'Summon' search engine, 'Universal Periodic Review' features in the title or keywords of 120 peer-reviewed publications.

[3] Nguyen Thi Kim Ngan, 'The Process of Viet Nam's Preparation of the National Report under the United Nations Human Rights Council's Universal Periodic Review' (2016) 17 *Asia Pacific Journal on Human Rights and the Law* 102; Uchenna Emelonye, 'Overview of Nigeria's 2nd Universal Periodic Review National Report' (2021) 04 *International Journal of Multidisciplinary Research and Analysis* 797.

[4] Fiona McGaughey, 'The Role and Influence of Non-Governmental Organisations in the Universal Periodic Review – International Context and Australian Case Study' (2017) 17 *Human Rights Law Review* 421.

flaws in the UPR process and identify potential reforms to its modalities, for instances changes to the content and production of UPR reports.[5]

Yet, and notwithstanding the value of this scholarship to date, it is apparent that when assessing states at the UPR, researchers have adopted different measures or standards of 'success'.

For instance, some will use the UPR's principles and modalities as the basis for assessment, while others have compared state practice at the UPR to other mechanisms (for instance, the African Peer-Review Mechanism), or to that of other states. The breadth of approaches taken by scholars is unsurprising. As a mechanism with universal reach, the UPR was bound to invite a range of perspectives. But there are two consequences of this diversity of approaches. Primarily, it is difficult when looking across studies to draw conclusions about the *overall* engagement of states with the UPR. Furthermore, and perhaps more significantly, empirical data may be interpreted differently depending on the standards adopted by the researcher. What one scholar describes as 'positive' another may consider the opposite. In fact, this dilemma has been the source of some heated disagreement across the academy. Eminent scholars have been particularly critical of the 'effectiveness' of the international human rights framework, notably Eric Posner[6] and Stephen Hopgood.[7] Posner's core argument is that 'human rights law has failed to accomplish its objectives' and that main proposals for improving human rights law (prioritize certain rights, use the 'margin of appreciation' and institutionalize) are 'dead ends'.[8] However, reviews of Posner's work have been critical. In their review of Posner's *The Twilight of Human Rights Law*, Beth Simmons suggests '[o]ne can agree with just about all of [Posner's claims] while drawing utterly different conclusions. Posner's complaints about how poorly international law and institutions work are well taken, but he never confronts the question: compared to what?'[9] Hurst Hannum, in his review of the same book, explains '[t]he changes in government behavior envisaged by human rights are potentially extensive

[5] Alice Storey, 'Challenges and Opportunities for the United Nations' Universal Periodic Review: A Case Study on Capital Punishment in the USA' (2020) 90 UMKC Law Review 129; Michael Lane, 'Navigating Devolution at the UPR: The Case of the United Kingdom' in Damian Etone, Amna Nazir and Alice Storey (eds), *Human Rights and the UN Universal Periodic Review Mechanism: A Research Companion* (Routledge 2024).

[6] Eric Posner, *The Twilight of Human Rights* (Oxford University Press 2014).

[7] Stephen Hopgood, *The Endtimes of Human Rights* (Cornell University Press 2013).

[8] Posner (n 6) 7 and ch 7.

[9] Beth Simmons, 'What's Right with Human Rights' (Democracy: A Journal of Ideas, 8 December 2014) https://democracyjournal.org/magazine/35/whats-right-with-human-rights/ accessed 1 August 2025.

and long-term. Thus, Posner's focus on the recent (twenty years or so) impact of human rights treaties largely misses the point'.[10] Both reviews reveal a difficulty with Posner's work in that the standards he deployed are not made explicit, nor are they realistic.

To illustrate how this issue presents itself in the UPR scholarship, we can look at the example of states' implementation of recommendations. Take, for instance, the state of Nigeria that was found to have fully or partially implemented 43 per cent of their first cycle recommendations.[11] To have not implemented over 50 per cent of recommendations seems problematic, especially as Nigeria had accepted 90 per cent of them.[12] Highlighting this, Etone reasonably suggests that this 'indicated an important contribution of the UPR' but there was 'a significant compliance gap which poses a major challenge'.[13] Certainly, this would appear to be the case, and Etone is right to highlight the discrepancy between Nigeria's commitment and practice. On the other hand, we might suggest that this is too pessimistic an assessment. No state in the first cycle implemented *all* UPR recommendations (in fact, for the first cycle, UPR Info found that 48 per cent were either fully or partially implemented).[14] From this perspective, Nigeria's implementation rate was completely consistent with the rest of the world and perhaps reveals a much more optimistic picture than we might initially think. To be sure, this discussion does not seek to undermine or to challenge the validity of Etone's claim, nor the value of existing case studies on states at the UPR. Rather, it is an illustration of how a state's practice at the UPR may be interpreted differently depending on the yardstick or standard we compare it to. This is not problematic per se, as both interpretations of Nigeria's implementation are clearly defensible. But, without an agreed standard or set of standards, we cannot easily draw parallels between case studies on state practice. It would be useful, arguably, if there were an agreed, consistent approach for assessing states at the UPR.

Scholars have recognized this, and there have been attempts at developing frameworks. Importantly, Etone elaborates a 'four-step approach' for

[10] Hurst Hannum, 'The Twilight of Human Rights Law by Eric A. Posner' (2015) 37 *Human Rights Quarterly* 1105.

[11] Damian Etone, 'Nigeria's Engagement with the Human Rights Council's Universal Periodic Review: Potential for Acculturation or Risk of Regression?' (2020) 28 *African Journal of International and Comparative Law* 267, 281.

[12] ibid 271.

[13] ibid 296.

[14] UPR Info, 'Universal Periodic Review: On the Road to Implementation' (2012) https://www.upr-info.org/sites/default/files/documents/2012-10/2012_on_the_road_to_implementation.pdf accessed 1 August 2025.

evaluating the 'effectiveness' of state engagement with the UPR. This involves observing and analysing the state under review at *all* stages of the UPR process, including 'state commitment to the UPR national consultation process, representativeness during the review, participation during the review sessions and the aggregate percentage of implemented UPR recommendations'.[15] There is great value in adopting this framework primarily because it acknowledges that all stages of the process are of importance. Yet, this four-step approach merely provides the stages of the UPR that should be assessed, rather than the specific standards against which states should be held. We thus return to the similar dilemma that we noted earlier. When it is subsequently claimed that certain states' implementation has been 'problematic',[16] or that 'significant percentage[s]' of recommendations were not implemented,[17] we could again ask what percentage of recommendations constitutes 'problematic'? What level of implementation would signal success? The following discussion delves deeper into the issue of standards in the context of human rights research to find a potential way forward.

A way forward? Deploying 'ideal' and 'empirical' standards

The most recent scholar to tackle the question of how the 'effectiveness' of human rights should be measured is Kathryn Sikkink. Sikkink explains that:

> Any discussion of legitimacy or effectiveness is essentially an exercise in comparison. We can only say that an institution or policy is legitimate or effective compared to something else. Thus, it is essential to start any discussion about legitimacy and effectiveness by calling attention to the central question: Compared to what?[18]

In their book *Evidence for Hope*, Sikkink explains that we might either make 'ideal' or 'empirical' comparisons.[19] Ideal comparisons involve measuring effectiveness against what should happen in an ideal world. It is important, Sikkink argues, that we are explicit when carrying out such a comparison,

[15] Damian Etone, *The Human Rights Council: The Impact of the Universal Periodic Review in Africa* (Routledge 2021) 55.
[16] On Nigeria, ibid 91.
[17] On Kenya, ibid 131.
[18] Sikkink, *Evidence for Hope* (n 1) 31.
[19] ibid chapter 2.

being clear on the precise ideals we are making reference to.[20] On the other hand, empirical comparisons involve evaluating practice against what *is* happening elsewhere (for example, in other states) or *has* happened previously in that state. Understanding the issue of standards in this way is useful as it reveals a number of potential approaches to assessing states at the UPR. From an ideal perspective, we might assess a state's UPR against the standards contained in the various resolutions adopted by the Human Rights Council (HRC) on the mechanism. Or, from an empirical perspective, a state's engagement could be measured against its own performance in previous cycles, or the practice of other states. These options resemble the competing interpretations of Nigeria's implementation progress, discussed earlier. The question that necessarily arises is which (if either) of these approaches is most appropriate? Should we assess states' UPRs against ideal or empirical standards?

One answer is that it ultimately depends on the preferences and aims of the individual carrying out the assessment. These two perspectives appear to serve different purposes: ideal reasoning allows us to assess and contrast *between law and practice*, but empirical reasoning allows us to see differences *between states*. On this basis, the researcher could make a choice of which standard to use depending on the end goal they wish to pursue. Lawyers may, naturally, choose to undertake ideal comparisons as they will be most familiar with doctrinal methodology – what the law is – and the task of showing where that law has been 'broken'. Equally, those domestic actors seeking to encourage change in state behaviour, for instance parliamentarians or civil society organizations, will find ideal comparisons powerful for creating 'pressure for change'.[21] Indeed, as will be explored in Chapter 4, international human rights can prove effective precisely because they provide important leverage for those on the ground pushing for change.[22]

If, however, the aim of an assessment is to provide an *objective, holistic* picture of a state's practice at the UPR, then it is important to have reference to *both* ideal and empirical standards. This appears to be the approach favoured by Sikkink when measuring the effectiveness of human rights. In their review of *Evidence for Hope,* Octávio Luiz Motta Ferraz observes how Sikkink's perspective is that 'comparison to the ideal, which seems to underlie most pessimistic accounts, is not alone an adequate yardstick and must be

[20] Kathryn Sikkink, 'The Role of Consequences, Comparison and Counterfactuals in Constructivist Ethical Thought' in Richard M Price (ed), *Moral Limit and Possibility in World Politics* (Cambridge University Press 2008) 106.

[21] Sikkink, *Evidence for Hope* (n 1) 49.

[22] See, for example, Beth Simmons, *Mobilising for Human Rights: International Law in Domestic Politics* (Cambridge University Press 2009).

necessarily complemented by empirical comparison'.[23] Sikkink explains their approach as being akin to Hirschman's 'possibilism' which involves 'keeping our focus on alternatives within the realm of the possible, though not necessarily the probable'.[24] For two reasons, this would appear to be an equally appropriate approach for assessments of states' UPRs. Foremost, it is apparent that both perspectives have the potential to provide important insights into state practice at the UPR. Ideal comparisons are central for revealing the discrepancy between a state's practice and obligation. But alone they are likely to produce negative results: '[t]he real world will always fall short of the ideal'.[25] This isolated exercise would find, unsurprisingly, shortcomings in state practice. Empirically grounded assessments are more realistic and, if we observe state practice over time, we are able to chart progress or regression. But alone, an empirical assessment ignores the important obligations that states have and should comply with. Hence, considering both ideal and empirical perspectives would provide a balanced, more complete assessment of state practice, and avoid making overly pessimistic or optimistic claims. It would, as Sikkink suggests, 'both critique and inspire'.[26]

Second, an approach that involves both forms of comparison reflects that the UPR process itself implements both ideal and empirical thinking about human rights. On the one hand, the UPR is rooted in the ideal, legal standards, as seen in resolution 5/1 which emphasizes states' obligations in international human rights law. These obligations form the basis of the review,[27] and a principal objective of the UPR is to contribute to the fulfilment of these.[28] Equally, though, the UPR is a peer review process which recognizes the importance of sharing best (empirical) practice. Additionally, it is implicit in the cyclical nature of the UPR and periodic reviewing that states should seek to improve *over time*. Each review is not a 'one off' snapshot of how a state is performing. Rather, the UPR 'encourages thinking about human rights obligations in terms of long-term cyclical engagement and planning'.[29] It is therefore in keeping with the rationale of the UPR to also make empirical comparisons of state practice. Taken together, these

[23] Octávio Luiz Motta Ferraz, 'Does Human Rights Law Work? Perception, Reality and the Challenges of Distinguishing Both. A Commentary on Sikkink's "Evidence for Hope"' (2020) 31 *King's Law Journal* 337, 340.

[24] Sikkink, *Evidence for Hope* (n 1) 32, citing Albert O. Hirschman, *A Bias for Hope: Essays on Development and Latin America* (Yale University Press, 1971).

[25] Motta Ferraz (n 23) 340.

[26] Sikkink, 'The Role of Consequences' (n 20) 110.

[27] HRC, 'Resolution 5/1 Adopted by the Human Rights Council: Institution-Building of the United Nations Human Rights Council' (2007) UN Doc A/HRC/5/1, para 1.

[28] ibid para 4(b).

[29] Kathryn McNeilly, 'The Temporal Ontology of the Human Rights Council's Universal Periodic Review' (2021) 21 *Human Rights Law Review* 1, 8–9.

observations suggest that, to provide a more holistic, complete analysis of state practice, our expectations should be informed by *both* ideal and empirical standards. We must, of course, point out where states are not meeting the standards of international human rights law, but we must, too, recognize where there has been progress and how states compare to one another and to their past performance.

If we are to utilize both ideal and empirical perspectives, the next task is to identify what these relevant standards comprise: what are the precise metrics or benchmarks? It is to this question we can now turn.

A framework for assessing state practice

For each stage of the UPR process – pre-review, working group, post-review and implementation and follow-up – the following sections set out the expectations of states, as detailed in the various UPR resolutions (the ideal standards), and the current practice of states (the empirical standards). This builds on a review of the relevant UN resolutions, documentation pertaining to states' reviews and existing research. Together, these can act as benchmarks to be deployed in future research to assess state practice. This is also an opportunity to think more carefully about the relevance and importance of assessing state practice, and what can be gained by observing a state at each stage of the review process. A necessary caveat is to say that the data set out here is accurate at the time of writing but will necessarily change in subsequent UPR cycles and as the modalities of the process evolves. Nevertheless, this exercise is important to show in practice how state practice can be assessed holistically, and future researchers are, of course, free (and indeed encouraged) to update the following framework in the event of changes. The next chapter will also demonstrate the use of this framework to the UK's four UPRs.

Pre-review

A state's UPR begins with the submission to the HRC of three key documents which constitute evidence of its human rights situation and which help inform the reviewing states' comments and recommendations. These documents are: (1) a national report, submitted by the state under review; (2) a compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR) of information taken from reports of other UN mechanisms (including the treaty bodies and special procedures); and (3) a summary of information provided by relevant stakeholders. As the focus here is on *state* practice, the national report is of particular importance for present purposes. An assessment of the state here can reveal several important insights. Foremost, the national report will reveal how the state wishes to

present itself to the international community. While some may wish to be constructive, transparent and open about their human rights situations, others may heavily moderate the report, using it as an opportunity to overemphasize successes and downplay challenges. As the report should be produced in consultation with stakeholders, this is also an opportunity to see the extent the state is committed to dialogue with civil society.

The relevant 'ideal' standards for the national report can be found in various UN resolutions. HRC Decision 17/119 explains that the national report should contain the following:

A. Description of the methodology and the broad consultation process followed for the preparation of information provided under the universal periodic review;
B. Developments since the previous review in background of the State under review and framework, particularly normative and institutional framework, for the promotion and protection of human rights: Constitution, legislation, policy measures, national jurisprudence, human rights infrastructure including national human rights institutions and scope of international obligations identified in the 'basis of review' in resolution 5/1, annex, section IA;
C. Promotion and protection of human rights on the ground: implementation of international human rights obligations identified in the 'basis of review' in resolution 5/1, annex, section IA, national legislation and voluntary commitments, national human rights institutions activities, public awareness of human rights, cooperation with human rights mechanisms;
D. Presentation by the State concerned of the follow-up to the previous review;
E. Identification of achievements, best practices, challenges and constraints in relation to the implementation of accepted recommendations and the development of human rights situations in the State;
F. Key national priorities, initiatives and commitments that the State concerned has undertaken and intends to undertake to overcome those challenges and constraints and improve human rights situations on the ground;
G. Expectations of the State concerned in terms of capacity-building and requests, if any, for technical assistance and support received.[30]

[30] HRC, 'Decision 17/119 Adopted by the Human Rights Council on Follow-up to the Human Rights Council Resolution 16/21 with Regard to the Universal Periodic Review' (2011) UN Doc A/HRC/DEC/17/119 para 2.

Particular emphasis appears to be placed on the 'broad consultation process', which, as specified by HRC Resolution 5/1, should be with 'all relevant stakeholders'.[31] While there is no exhaustive list of such stakeholders, 5/1 makes earlier reference to non-governmental organizations and national human rights institutions.[32] Subsequent resolutions have also recognized the importance of consulting with parliamentarians,[33] and there is an increasing recognition that lawyers and judges should also be involved in these discussions.[34] These guidelines are important for ensuring that all states provide the same content in their national reports, thereby ensuring their equal treatment.[35] An emphasis on procedural consistency is also one of the key components of the UPR which ensures its legitimacy.

In terms of actual state practice, to date there have only been isolated instances where states have failed to submit their national reports. The OHCHR's UPR repository[36] reveals that only two states for the first UPR cycle failed to submit: Cabo Verde and Comoros (though Comoros did provide a later, written version of their oral statement from their review).[37] It is likely that this was a consequence of these state's lack of capacity and technical support.[38] With respect to the content of national reports, however, state practice shows significant variation. Notably, research by UPR Info found that of 84 national reports, only 17 per cent follow the exact format set out earlier, though others follow a similar layout.[39] Similarly, the extent and degree of consultations to inform the national report vary considerably. UPR Info found that while most states (94 per cent) include a specific section on consultation methodology, the content of this section varies, and most do not comment specifically on the outcomes of the discussions

[31] HRC, 'Resolution 5/1' (n 27) para 15(a).

[32] ibid para 3(m).

[33] HRC, 'Resolution 26/29 Adopted by the HRC: Contribution of Parliaments to the Work of the Human Rights Council and Its Universal Periodic Review' (2014) UN Doc A/HRC/RES/26/29 para 1.

[34] See Chapter 7, 'Introduction'.

[35] Equal treatment is a core principle of the UPR see HRC, 'Resolution 5/1' (n 27) para 3(c).

[36] All states' documentation can be found on the OHCHR's website, see OHCHR, 'Universal Periodic Review: Documentation by Country' (2025) https://www.ohchr.org/en/hr-bodies/upr/documentation accessed 1 August 2025.

[37] OHCHR, 'Comoros: Oral Presentation' (2009) https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session5/KM/Oral_presentation_Comoros_F.pdf accessed 1 August 2025.

[38] Rhona Smith, 'A Review of African States in the First Cycle of the UN Human Rights Council's Universal Periodic Review' (2014) 14 *African Human Rights Law Journal* 346, 361.

[39] UPR Info, 'Identifying Best Practices: An Analysis of National Reports' (2015) https://www.upr-info.org/en/analyses/UPR-Info-documents accessed 1 August 2025.

with stakeholders.[40] That some states are unclear about the extent of their engagement with stakeholders is perhaps unsurprising given the continued hostility toward civil society activism in many countries.[41] However, many states have adopted promising practices, including the use of workshops, seminars and online discussion forums, to collect views.[42] Activities such as these are likely to maximize the contribution of civil society to the national report. Some also provide significant information to the HRC on the outcome of these meetings in the annexes to their reports.[43] This is also important as it contributes to the transparency of the process and suggests that a government has been receptive to the views of civil society.

It is apparent, too, that states do not always consult *all* relevant stakeholders, with some groups and individuals being left out. Perhaps most notably are parliamentarians. Though it has been over ten years since the HRC called upon states to include parliaments as relevant stakeholders in the national report consultations, this continues to be a nascent practice. Brian Chang and Graeme Ramshaw in 2017 considered that that '[t]he majority of parliaments and parliamentarians are not aware of the UPR, and are not involved in the drafting of national reports'.[44] In part, this appears to be because most executives have 'relatively well defined' roles: 'the executive leads engagement on behalf of the state, providing the official report on implementation and is the addressee of international-level recommendations'.[45] Parliaments, on the other hand, 'lack a separate clearly defined role or "space"'.[46] As will be discussed in Chapter 6, on the UK Parliament, there are several barriers that may prevent parliamentarians engaging with the UPR, including, but not limited to, capacity and scepticism of the UPR.

In sum, careful attention should be paid to the pre-review phase as a means to understand a state's commitment to dialogue with stakeholders, and its willingness to be transparent about its human rights situation. Ideally, state practice here should consist of the submission of a comprehensive,

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40 ibid.

41 See, for instance, Helmut K Anheier, 'The United Nations and Civil Society in Times of Change: Four Propositions' (2018) 9 *Global Policy* 291.

42 UPR Info, 'Analysis of National Reports' (n 39).

43 For example, Chile and Morocco ibid 7.

44 Brian Chang and Graeme Ramshaw, *Strengthening Parliamentary Capacity for the Protection and Realisation of Human Rights Synthesis Report* (Westminster Foundation for Democracy 2017) 20 https://www.wfd.org/sites/default/files/2022-05/research-wfd-strengthening-parliamentary-capacity-for-the-protection-and-realisation-of-human-rights-synthesis-report.pdf accessed 1 August 2025.

45 Kirsten Roberts Lyer, 'Parliaments as Human Rights Actors: The Potential for International Principles on Parliamentary Human Rights Committees' (2019) 37 *Nordic Journal of Human Rights* 195, 209.

46 ibid.

constructive national report, compiled following a broad consultation with stakeholders, including civil society, national human rights institutions and parliamentarians. Yet, it is important to bear in mind how varied state practice actually can be in terms of how the national report is presented and particularly how much information is shared about the consultation processes. Equally, we continue to see limited engagement by states with certain stakeholders, notably parliamentarians.

The working group

The state's national report, along with the stakeholder and UN compilations, is used to inform its review, which takes the form of an interactive dialogue. Here, the state under review engages in a discussion with its peers, receiving critique, praise and, importantly, recommendations. The dialogue, which lasts three-and-a-half hours,[47] is facilitated by the 47 member states of the HRC and is supported by a 'troika' of three states, but any UN member state can take part. As discussed in Chapter 1, the UPR reviews states against a broad array of international human rights obligations, as contained in: the UN Charter; the UN Declaration of Human Rights; the human rights instruments to which the state is a party; any voluntary pledges made by the state; and applicable international humanitarian law. Given the importance of this aspect of the UPR, it is perhaps unsurprising that much of the literature on the UPR has focused on states' practice during the interactive dialogue. In particular, attention appears to be paid to three aspects of the dialogue: the composition of the state's delegation, its engagement with the dialogue, and the nature of the recommendations received.

The delegation

States must necessarily send a delegation to Geneva in order to participate in the interactive dialogue.[48] Observing who is sent by a state can provide some useful insights into how it perceives the UPR process. For instance, governments sending ministerial delegations, particularly those situated within departments responsible for domestic human rights, send a message that the state accepts the UPR process as one that is important for the

[47] Extended from three hours prior to the second UPR cycle, see HRC, 'Resolution 16/21 Adopted by the HRC: Review of the Work and Functioning of the Human Rights Council' (2011) UN Doc A/HRC/RES/16/21 para 11.

[48] Though note that during the coronavirus (COVID-19) pandemic, reviews were conducted virtually.

improvement of *its own* human rights situation.[49] As Allehone Mulugeta Abebe explains, this also demonstrates 'the seriousness with which states take the process'.[50] In addition to this, where states involve senior civil servants, legal and policy advisors, and members of Parliament, this will only increase the likelihood that the UPR process will inform changes in domestic law and policy. Conversely, the sending of ministers from foreign affairs departments indicates 'an unfortunate tendency to view the UPR as a foreign affairs exercise rather than a national process for the examination and improvement of human rights'.[51] A similar comment can be made about those states that only send members from their missions in Geneva. It is therefore important to analyse a state's delegation to understand the state's intention and, as a result, whether they are seeking to meet the objective of the UPR to improve its international human rights compliance.

Resolutions on the UPR do not specify the (ideal) composition of states' delegations,[52] reflecting that governments will allocate responsibility for engagement with international human rights mechanisms in different ways. Notably, however, HRC resolution 26/29 'encourages' states to include parliamentarians in their delegations.[53] The HRC's rationale for this is not evident in its 2018 report on parliaments and the UPR but is it likely that attendance in Geneva is urged to foster better salience of the state's UPR recommendations among parliamentarians. In turn, their role in following up the implementation of these is likely to be enhanced. Additionally, the UPR should 'fully integrate a gender perspective',[54] which has led the HRC to encourage states to bear in mind gender diversity when selecting their delegations.[55]

In practice, all states have been represented by delegations meaning, to date, the UPR has achieved 100 per cent participation. This is what separates the mechanism from, for instance, the UN treaty bodies, which have not had

[49] Allehone Mulugeta Abebe, 'Of Shaming and Bargaining: African States and the Universal Periodic Review of the United Nations Human Rights Council' (2009) 9 Human Rights Law Review 1, 12; Rosa Freedman, 'New Mechanisms of the UN Human Rights Council' (2011) 29 *Netherlands Quarterly of Human Rights* 289, 305–306.

[50] ibid 12.

[51] Gareth Sweeney and Yuri Saito, 'An NGO Assessment of the New Mechanisms of the UN Human Rights Council' (2009) 9 *Human Rights Law Review* 203, 209.

[52] HRC, 'Resolution 5/1' (n 27) para 18(a) specifies that 'Each member State will decide on the composition of its delegation'.

[53] See HRC, 'Report of the Office of the United Nations High Commissioner for Human Rights: Contribution of Parliaments to the Work of the Human Rights Council and Its Universal Periodic Review' (2018) UN Doc A/HRC/38/25. Also see Chapter 6.

[54] HRC, 'Resolution 5/1' (n 27), para 3(k).

[55] HRC, 'Resolution 6/30: Integrating the Human Rights of Women throughout the United Nations System' (2007) UN Doc A/HRC/6/30 paras 15–17.

such success in this regard, and is one of the aspects of the UPR that has been cited to emphasize its importance and value. Engagement with the review from parliamentarians, though, is relatively low with only 26, 22 and 32 states for the three UPR cycles, respectively, including parliamentary representation in their delegations.[56] While this reveals an increase over time, it is only nominal. Notably, parliamentarians from states in the Western European and Other States Group (WEOG) are particularly underrepresented.[57] It is unclear why this is the case, though Kirsten Roberts Lyer suggests that 'whilst the role of most domestic actors in engaging with international human rights are relatively well defined … there is little precedent for parliaments formally and independently engaging with the international human rights mechanisms'.[58] Certainly, in the WEOG, states are liberal democracies in which international affairs have traditionally been the responsibility of the executive rather than legislative branch. An expectation that parliamentarians be independently (autonomously) involved in the UPR working group may be a strange notion in some jurisdictions. Hence, while ideally all states' parliamentarians should be involved in the delegation, we should continue to temper our expectations.

Engagement in dialogue

The second aspect of a state's practice that we might observe at the working group is the nature and extent of its engagement in the interactive dialogue. Whether and how a state discusses human rights issues with its peers can provide unique insights. We are, of course, used to seeing states' human rights scrutinized by courts, experts and NGOs and interrogating how the state responds to this critique. But the UPR is a novel platform which requires the state to discuss its human rights record with its peers. Here, we can see if and how the state presents itself differently to an international audience. The *substance* of the dialogue is, of course, informative, but we should also pay close attention to the state's compliance with the *process*. Seventy minutes of the three-and-a-half-hour session is available to the state under review to provide an initial presentation, reply to states' comments and present a closing statement.[59] A common practice (but one that is not formally required) is the submission by reviewing states of 'questions in advance'. These are provided to a state under review before the dialogue to 'facilitate its

[56] OHCHR, 'Parliaments' https://www.ohchr.org/en/hr-bodies/upr/parliaments accessed 1 August 2025.
[57] ibid.
[58] Roberts Lyer (n 45) 209.
[59] HRC, 'Decision 17/119' (n 30).

preparation and focus the interactive dialogue',[60] though there is no express requirement that these are answered in the state's initial presentation. It is also worth reiterating, however, the principles and objectives of the UPR, set out in HRC Resolution 5/1, namely that the review be conducted in a transparent, constructive manner and with the view of assisting the state to fulfil its human rights obligations and assess developments and challenges. Perhaps unsurprisingly, though, the practice of states here has varied considerably. Early assessments of the UPR revealed that some states used their allocated time in such a way as to avoid addressing some of the more contentious issues raised in the dialogue, for instance by using most or all of their time for the initial presentation. Gareth Sweeney and Yuri Saito explain that: '[t]he prevailing practice of States under review was to answer questions in clusters' which meant that 'the majority of issues were left unaddressed, intentionally or otherwise'.[61] So, while there are relatively clear expectations of how states are to use their time during the dialogue, in reality, practice diverges considerably.

Recommendations received

During the interactive dialogue, a state under review will receive recommendations from its peers. Much of the previous research on state practice has focused on analysing recommendations using various qualitative and quantitative methods. On the one hand, recommendations are a useful insight into the state's human rights situation. As will be seen in subsequent chapters, actors including courts and parliaments refer to recommendations as evidence to inform and legitimize their claims. We know from previous research, too, that although recommendations are made by states (and therefore represent those state's *perceptions* of the human rights situation), many reflect the credible reports of stakeholders that submit evidence in advance of reviews.[62] Nevertheless, it is important not to overlook the potential for politicization and state relations to affect the recommendations made by states. The most concrete evidence of this can be found in Rochelle Terman and Erik Voeten's study, which shows how inter-state politics affects both whether states make recommendations and how strong or weak

[60] HRC, 'Resolution 5/1' (n 27), para 21.

[61] Sweeney and Saito (n 51) 211.

[62] Lawrence C Moss, 'Opportunities for Nongovernmental Organization Advocacy in the Universal Periodic Review Process at the UN Human Rights Council' (2010) 2 Journal of Human Rights Practice 122; Edward McMahon, 'The Universal Periodic Review: Do Civil Society Organization-Suggested Recommendations Matter?' (Friedrich Ebert Stiftung 2013) https://library.fes.de/pdf-files/iez/10343.pdf accessed 1 August 2025.

they are.[63] So, while a state's received recommendations are certainly insightful, they are best understood as the international community's *view or perception*. Observing received recommendations is still, however, a good indicator of a state's human rights situation.

The proliferation of databases of human rights recommendations (of the UPR and other mechanisms) means that various qualitative and quantitative analyses are possible.[64] UPR Info's database, which has been used frequently in previous research, allows users to search and filter recommendations in a myriad of ways – by keyword, human rights issue/theme or by regional group, for instance – making identifying the relevant empirical standards relatively straightforward. One point to note here, though, is that the OHCHR, when preparing the state's working group report, will classify many identical recommendations as one, whereas some sources, notably UPR Info's database, will count individual recommendations as received. When researching a state's recommendations, it is important to bear this in mind, as it will necessarily have a bearing on any quantitative analysis. For the purpose of this book, and as identified by UPR Info's database, the approach taken is to consider individual recommendations as received.

For present purposes, this section sets out the relevant empirical data for (1) the themes of recommendations received by states, and (2) the 'action category' of recommendations. This can then be used as a basis for assessment for other states' recommendations, such as the UK's UPRs in the next chapter. On the first point, theming a state's recommendations and comparing them to those from previous reviews could show, for instance, whether certain human rights issues have improved or worsened over time. Or comparing them to the recommendation profile of other states may highlight whether there are particularly prevalent human rights issues. Table 2.1 highlights the top five human rights issues for all states for the three completed UPR cycles.

We can see that, across all cycles, the three most consistent themes are international instruments (any recommendation citing an international instrument, for instance one calling on a state to ratify a treaty), women's rights and rights of the child. The latter two themes possibly reflect the (nearly) global consensus on protecting the rights of these groups.[65]

[63] Rochelle Terman and Erik Voeten, 'The Relational Politics of Shame: Evidence from the Universal Periodic Review' (2018) 13 Review of International Organizations 1.

[64] For a directory of such databases, see Huridocs, 'Human Rights Research Databases' https://huridocs.org/resource-library/human-rights-research-databases accessed 1 August 2025.

[65] The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and Convention on the Rights of the Child (CRC) are among the top three most ratified treaties of the nine core UN human rights treaties (the other being the Convention on the Rights of Persons with Disabilities [CRPD]).

Table 2.1: The five most common human rights themes across all states

UPR I	% of total recs	UPR II	% of total recs	UPR III	% of total recs
International instruments	21%	International instruments	30%	Women's rights	35%
Women's rights	17%	Women's rights	19%	Rights of the child	20%
Rights of the child	16%	Rights of the child	18%	International instruments	16%
Torture and CID	8%	Torture and CID	8%	Right to education	14%
Justice	7%	Justice	8%	Labour rights	10%

Alternatively, a state's recommendation profile might be compared to that of its regional group. Table 2.2 sets out the top five themes of recommendation for the five UN regional groups: Asia-Pacific, Africa, Eastern Europe, Latin America and the Caribbean, and Western Europe and Others.

Although this regional data largely resembles the global picture, with international instruments, women's rights and rights of the child featuring prominently across all UPRs in all regions, some issues differ across regions' recommendation profiles. So, for WEOG states, more recommendations have been received concerning 'migrants' and 'racial discrimination'. And, for the Eastern European Group (EEG) states, minority rights are a more pertinent theme. This data should be a valuable point of reference for comparing a state's recommendation themes to those of its peers, and to potentially highlight the prevalence of certain human rights issues.

Another way of assessing a state's received recommendations is to analyse the verbiage they use. UPR Info's database categorizes recommendations using a system developed by Edward McMahon that assigns them an 'action category' from one to five depending on the specificity and nature of the verb used in the recommendation's wording. Recommendations ranked 'five' require specific action; 'four' is more general action; 'three' requires the state to consider change; 'two' requires the state to continue an action; and 'one' is assigned to recommendations that are directed to other states or requiring the state under review to share information.[66] This system is not without its flaws, but 'identifying what states are expected to do from a recommendation in terms of substantive action is a way of usefully matching recommendations together in order to examine general trends'.[67] As with the themes of recommendations, discussed earlier, seeing how a state's recommendation profile in terms of how its action group categorization compares to previous reviews and other states can provide useful insights. Some have argued that seeing the percentage of recommendations increasing in specificity over time might suggest that a state is reluctant to change, whereas if recommendations progressively become less specific and focus on continuity of action, that could indicate an effort on the part of the state to implement previous recommendations.[68] This is certainly plausible, though an increase in specific recommendations could be the result of

[66] UPR Info and Edward McMahon, 'UPR Info's Database: Action Category' (2016) https://upr-info.org/sites/default/files/general-document/2022-05/Database_Action_Category.pdf accessed 1 August 2025.

[67] Michael Lane and Frederick Cowell, 'Using Universal Periodic Review Recommendations in UK Courts' (2024) 29 *Judicial Review* 119, 126.

[68] Karolina M Milewicz and Robert E Goodin, 'Deliberative Capacity Building through International Organizations: The Case of the Universal Periodic Review of Human Rights' (2018) 48 *British Journal of Political Science* 513, 524.

Table 2.2: The five most common human rights themes for each UN regional group

Asia-Pacific Group					
UPR I	**% of total recs**	**UPR II**	**% of total recs**	**UPR III**	**% of total recs**
International instruments	22%	International instruments	25%	Women's rights	35%
Women's rights	17%	Women's rights	19%	Rights of the child	20%
Rights of the child	14%	Rights of the child	15%	International instruments	16%
Torture and CID	8%	Justice	8%	Right to education	14%
Justice	7%	Torture and CID	8%	Labour rights	10%
African Group					
UPR I	**% of total recs**	**UPR II**	**% of total recs**	**UPR III**	**% of total recs**
Women's rights	20%	International instruments	23%	Women's rights	24%
Rights of the child	20%	Women's rights	22%	Rights of the child	23%
International instruments	19%	Rights of the child	21%	International instruments	18%
Torture and CID	11%	Torture and CID	10%	Torture and CID	9%
Justice	8%	Justice	9%	Right to education	7%
Eastern European Group (EEG)					
UPR I	**% of total recs**	**UPR II**	**% of total recs**	**UPR III**	**% of total recs**
International instruments	16%	Rights of the child	19%	Rights of the child	20%
Women's rights	15%	International instruments	19%	Women's rights	20%
Rights of the child	15%	Women's rights	15%	International instruments	14%

(continued)

Table 2.2: The five most common human rights themes for each UN regional group (continued)

Asia-Pacific Group					
Minority rights	15%	Minority rights	15%	Minority rights	13%
Justice	7%	Racial discrimination	10%	Racial discrimination	11%
Latin America and Caribbean Group (GRULAC)					
UPR I	**% of total recs**	**UPR II**	**% of total recs**	**UPR III**	**% of total recs**
International instruments	20%	Women's rights	20%	Women's rights	22%
Rights of the child	17%	International instruments	20%	Rights of the child	18%
Women's rights	16%	Rights of the child	18%	International instruments	16%
Justice	9%	Justice	8%	Right to health	7%
Torture and CID	7%	Torture and CID	7%	Right to education	6%
Western European and Other States Group (WEOG)					
UPR I	**% of total recs**	**UPR II**	**% of total recs**	**UPR III**	**% of total recs**
International instruments	26%	International instruments	25%	Women's rights	18%
Migrants	14%	Rights of the child	18%	Rights of the child	18%
Women's rights	14%	Racial discrimination	15%	International instruments	18%
Rights of the child	13%	Women's rights	15%	Racial discrimination	16%
Racial discrimination	11%	Migrants	14%	Migrants	13%

Table 2.3: Percentage of all recommendations associated with each action group

Action category	% of total recs (UPR I)	% of total recs (UPR II)	% of total recs (UPR III)
1	2%	0%	1%
2	14%	17%	20%
3	10%	7%	6%
4	39%	39%	37%
5	34%	37%	37%

other factors, notably the advocacy taking place to encourage states to make 'SMART' (specific, measurable, achievable, relevant and time-bound) recommendations.[69] A cautious interpretation of action category data is therefore required. Table 2.3 provides a global picture.

The main notable trend observed is that the number of category two recommendations has increased over time, albeit only slightly. This could be evidence of implementation, as it suggests that states have taken appropriate action on recommendations between reviews and now need to continue with what they are doing, rather than take new, specific actions. Table 2.4 is a breakdown of recommendations' action category by regional group. All regional groups' data follow a very similar pattern to the global picture, with most recommendations making up categories four and five and very few categories one and three. Equally, the same trend can be seen of category two recommendations increasing for all regions over the three cycles.

As the 'main event' of the UPR, the working group can provide us with unique insights into a state's human rights situation. Here we can observe the dual perspective of the state under review in its presentation and responses, and that of its peers in their remarks and recommendations.

Post-review

Following the working group, a report containing a summary of the state's interactive dialogue and a full list of its recommendations is drafted (the 'working group report'). Post-review, the state is required to determine its responses by setting out which of those recommendations it 'accepts' and 'notes'.[70] This may be done when the state's working group report

[69] Among other organizations, UPR Info advocate for this approach, see UPR Info, 'A Guide for Recommending States at the UPR' (2015) https://upr-info.org/en/news/upr-info-publishes-first-guide-recommending-states-upr accessed 1 August 2025.

[70] HRC, 'Resolution 5/1' (n 27) para 32.

Table 2.4: Percentage of recommendations associated with each action group for each UN regional group

Action category	% of total recs (UPR I)	% of total recs (UPR II)	% of total recs (UPR III)
Asia-Pacific Group			
1	3%	1%	1%
2	17%	19%	21%
3	10%	7%	6%
4	36%	35%	32%
5	35%	39%	39%
African Group			
1	4%	1%	1%
2	14%	16%	20%
3	8%	6%	5%
4	39%	40%	38%
5	35%	37%	37%
Eastern European Group (EEG)			
1	0%	0%	0%
2	13%	15%	18%
3	8%	7%	4%
4	49%	45%	45%
5	29%	33%	33%
Latin America and Caribbean Group (GRULAC)			
1	2%	1%	1%
2	15%	20%	20%
3	10%	7%	5%
4	38%	38%	37%
5	35%	34%	37%
Western European and Other States Group (WEOG)			
1	0%	0%	1%
2	10%	17%	19%
3	12%	7%	6%
4	41%	39%	37%
5	37%	37%	37%

Table 2.5: Percentage of recommendations accepted across all member states

UPR I	UPR II	UPR III
73%	73%	75%

is adopted or at the next HRC plenary when all states' reviews from the preceding session are considered (in fact, the latter is considered preferable so that states can consult with stakeholders).[71] States are not required to accept recommendations, nor does acceptance create binding, enforceable obligations. Nevertheless, acceptance should not be understood as an inconsequential act. If recommendations on certain issues are routinely accepted by states, this may suggest a consistent state practice and *opinio juris* for the purpose of identifying customary international law.[72] Acceptance is a formal act of a state's government acknowledging and approving the content of the recommendation and agreeing to be scrutinized on its implementation progress at the next review.[73] Analysing a state's responses to recommendations can therefore reveal its receptivity to being scrutinized and changing its practice. To do this, we may compare a state's rates of acceptance to those from previous cycles, or those of its peers. As Table 2.5 shows, across all states, most recommendations are accepted. What this suggests is that states are generally receptive to the comments made by peers.

Regionally, we see some notable divergences in rates of acceptance, as shown in Table 2.6. The EEG has the highest rate of acceptance in all three cycles, whereas the Asia-Pacific Group and the WEOG have consistently lower than average rates of acceptance.

Breaking down rates of acceptance per action category provides a useful insight into how states' receptivity can differ depending on the specificity of the action required (see Table 2.7).

This data shows that more specific, action category five recommendations have consistently lower rates of acceptance, whereas less specific category one and two recommendations are more likely to be accepted. This is

[71] See, for the fourth cycle, OHCHR, 'Letter from President of the HRC, Federico Villegas, to UN Member States', dated 1 November 2022 (2022) https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/Letter-HRC-President-Member-States-UPR-4th-cycle.pdf accessed 1 August 2025.

[72] Elvira Domínguez-Redondo, 'The Universal Periodic Review – Is There Life Beyond Naming and Shaming in Human Rights Implementation?' (2012) 2012 New Zealand Law Review 673, 704; Frederick Cowell, 'Understanding the Legal Status of Universal Periodic Review Recommendations.' (2018) 7 *Cambridge International Law Journal* 164.

[73] The HRC has emphasized that 'subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of human rights situations in the State under review', see HRC, 'Decision 17/119' (n 30) para 2.

Table 2.6: Percentage of recommendations accepted in each region for each UPR cycle

UPR I	UPR II	UPR III
Asia-Pacific Group		
70%	67%	68%
African Group		
76%	78%	80%
Eastern European Group (EEG)		
82%	85%	81%
Latin America and Caribbean Group (GRULAC)		
74%	75%	74%
Western European and Other States Group (WEOG)		
67%	68%	70%

Table 2.7: Percentage of recommendations accepted across all member states by action category

Action category	Percentage of recommendations accepted		
	UPR I	UPR II	UPR III
1	97%	94%	71%
2	95%	96%	96%
3	60%	54%	51%
4	82%	86%	87%
5	56%	53%	52%

unsurprising, as less specific recommendations, which may call on states to continue existing practice, are presumably easier to implement. More specific recommendations, however, might necessitate significant changes to a state's law or practice, making acceptance a greater commitment. It is curious, though, that category three recommendations also have lower rates of acceptance. McMahon and Marta Ascherio provide the following explanation for this:

> Analysis of the category 3 recommendations reveals that many of them contravene deeply held beliefs or policy positions of the governments and possibly also the populations involved. Clear examples of this are recommendations that many Western states make to African states for decriminalization of same-sex relations. These types of

> recommendations are hypersensitive to many governments, making it 'radioactive' for the [state under review] to even think about adopting the reforms, especially as they could subsequently be called on to present the results of their consideration.[74]

We can see, then, that the action category system allows us to draw pertinent conclusions about a state's receptivity to change.

Another aspect of state practice that can be assessed here is the comments a state provides alongside its formal responses. Resolution 5/1 explains that, at the HRC plenary, '[t]he State concerned and the member States of the Council, as well as observer States, will be given the opportunity to *express their views on the outcome*'.[75] Arguably, such comments should further facilitate transparent and constructive dialogue about human rights, given these are central aims of the UPR. In practice, and according to the HRC session reports,[76] all states for all reviews have offered *some* comments to explain their position on received recommendations. It is beyond the scope of this chapter to comprehensively review all states' post-review comments, but a look at the most recent 57th Human Rights Council session report shows that the tone, content and purpose of states' post-review comments can vary.[77] Some states' comments are helpful and provide reasonably clear justifications for the decisions to not accept certain recommendations. Others simply explain that recommendations were noted without providing any rationale. One state, New Zealand, went beyond the requirements of the review process and submitted an additional report to the HRC (in the form of an 'annex' to their working group report) with detailed reasons for each recommendation.[78] The requirement for states to 'express their views on the outcome' has, therefore, been implemented to varying degrees.

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[74] Edward McMahon and Marta Ascherio, 'A Step Ahead in Promoting Human Rights? The Universal Periodic Review of the UN Human Rights Council' (2012) 18 *Global Governance* 231, 240.

[75] HRC, 'Resolution 5/1' (n 27) para 30. Emphasis added.

[76] All HRC Regular Session reports can be found at https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions accessed 1 August 2025.

[77] At the time of writing, this is the report of HRC's 57th Session which considers the outcomes from the 46th session of the working group on the UPR, 29 April to 10 May 2024. These states were New Zealand, Afghanistan, Chile, Viet Nam, Uruguay, Yemen, Vanuatu, Republic of North Macedonia, Comoros, Slovakia, Eritrea, Cyprus, Dominican Republic and Cambodia. See HRC, 'Report of the Human Rights Council on Its 57th Session' (2024) A/HRC/57/2, see, in particular, pages 75–150.

[78] New Zealand Government, 'Proposed Actions for UPR Recommendations' (2024) https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/sessions/session46/nz/A_HRC_57_4_Add.1_New-Zealand_Annex-2_E.docx accessed 19 March 2025.

Follow-up and implementation

The final aspect of a state's UPR that can be assessed is its follow-up and implementation practice. As Etone has noted, the term 'implementation' is open to interpretation[79] as it is not defined by Resolution 5/1. Yet, the literature in this area defines implementation to mean, simply, 'the process of putting international commitments into practice'.[80] In the context of the UPR, implementation therefore entails a state taking steps to realize a recommendation. This may be through, for instance, the ratification of a treaty, a change to the state's law, or other non-legal acts to ensure that existing human rights protections are effectively applied such as by training public servants more effectively. In some cases, the recommendation might specify not only the end to be achieved, but the particular action to be taken by the state (for instance, to repeal a certain offending law). Implementation has been highlighted by scholars as one of the – most important aspect of the UPR. Marianne Lilliebjerg suggested that 'the ultimate measure of the effectiveness of the UPR as a human rights mechanism lies in the degree to which its recommendations are implemented by States'.[81] Hence, Gareth Sweeney and Yuri Saito provide that measuring implementation 'is most critical as it will answer the question whether the UPR is capable of fulfilling its primary objective of "improving the situation on the ground"'.[82] Certainly, we cannot understate the importance of states taking action in response to recommendations and it would, as Sweeney and Saito suggest, be an insight into whether the UPR has been effective. But we should not neglect the other, less obvious ways in which the UPR can promote and protect human rights that may be disconnected from a given recommendation. As will be seen in Chapter 4, the mechanism has broader implications. By providing domestic actors with leverage (which includes but is not limited to recommendations) to legitimize their claims for change, the UPR can act as a catalyst for domestic mobilization. But implementation is still critical and deserves attention when assessing a state's practice.

What, then, are the relevant ideal and empirical standards to be used for this purpose. Resolution 5/1 explains that '[t]he outcome of the universal periodic review, as a cooperative mechanism, should be implemented

[79] Etone, *UPR in Africa* (n 15) 52.

[80] Kal Raustiala and Anne-Marie Slaugter, 'International Law, International Relations and Compliance' in Walter Carlneas, Thomas Risse and Beth A Simmons (eds), *The Handbook of International Relations* (Sage 2002) 539.

[81] Marianne Lilliebjerg, 'The Universal Periodic Review of the UN Human Rights Council – An NGO Perspective on Opportunities and Shortcomings' (2008) 26 *Netherlands Quarterly of Human Rights* 311, 314.

[82] Sweeney and Saito (n 51) 219.

primarily by the State concerned' and that '[t]he subsequent review should focus, inter alia, on the implementation of the preceding outcome'.[83] In addition, states are encouraged (though not mandated) to provide mid-term updates, between UPR cycles, on their progress.[84] In practice, voluntary mid-term reports have been provided by 89 states for at least one of the three completed UPR cycles.[85] Twenty-six have submitted reports for all three completed cycles.[86] Clearly, then, mid-term reporting has not been a common practice. Looking at the substance of these reports, too, there is significant discrepancy in their presentation, length and quality.

Measuring implementation, though, and identifying reliable, empirical standards is considerably more difficult for four interrelated reasons. First, there is no 'central' source to identify how many recommendations have been implemented.[87] Instead, we are reliant on the information provided by governments, maybe in mid-term reports if they are submitted, and/or that from stakeholders in their own reports to make a judgment on the level of implementation. When looking at these sources, though, the second issue becomes apparent, namely that of contradicting accounts. The extent that a state has acted on a given recommendation can be the site of contestation among governments and stakeholders. It is plausible that the former may interpret its progress generously, while a pressure group or affected citizens will do the opposite.[88] To navigate this, in their 'mid-term implementation assessments' undertaken for the first cycle, UPR Info developed the 'Implementation Recommendation Index' to show an average of stakeholders' responses,[89] a method that some scholars have

[83] HRC, 'Resolution 5/1' (n 27) paras 33–34.

[84] HRC, 'Resolution 16/21' (n 47) para 18.

[85] All states' mid-term reports can be found on the OHCHR website, https://www.ohchr.org/en/hr-bodies/upr/upr-implementation accessed 1 August 2025.

[86] ibid. These are Argentina, Armenia, Azerbaijan, Bahrain, Belgium, Bulgaria, Chile, Croatia, Denmark, Estonia, Finland, Greece, Honduras, Ireland, Japan, Kenya, Mongolia, Paraguay, Poland, Portugal, Slovenia, Spain, Sweden, Thailand, the UK and Uruguay.

[87] The desirability of the 'follow-up mechanism' has been discussed previously, see notably Roland Chauville, 'The Universal Periodic Review's First Cycle: Successes and Failures' in Hilary Charlesworth and Emma Larking (eds), *Human Rights and the Universal Periodic Review: Rituals and Ritualism* (Cambridge University Press 2014) 96.

[88] Subhas Gujadhur and Marc Limon suggest that '[i]t would take a brave government indeed to submit a report to the UN admitting that they had failed to implement any of the 200 or so recommendations received earlier', see Subhas Gujadhur and Marc Limon, 'Toward the Third Cycle of the UPR: Stick or Twist?' (2016) 39 https://www.universal-rights.org/wp-content/uploads/2016/07/URG_UPR_stick_or_twist.pdf accessed 1 August 2025.

[89] See, for instance, the report on Egypt, UPR Info, 'Egypt: Mid-Term Implementation Assessment' (2012) https://upr-info.org/sites/default/files/documents/2014-03/mia-egypt.pdf accessed 1 August 2025.

subsequently adopted.[90] The third issue is the sheer number and diversity of recommendations. According to UPR Info's database, in the third cycle states received an average of 210 recommendations across 68 different themes. This means that the number of recommendations has nearly doubled since the first cycle, for which states received an average of 111. The task of reviewing recommendations is therefore lengthy. Finally, even if it is possible to say that a state has taken action, it will be difficult (perhaps not even possible) to determine whether the action was taken *because of* the UPR. Writing on the UK's first UPR, Kathryn McNeilly and Leanne Cochrane explain that:

> it has proven difficult to assess the UK's success in terms of the improvement it generated for human rights situations on the ground. Where a recommendation has been implemented it is difficult to quantify the specific contribution of the UPR mechanism given that a number of domestic and international political and legal pressures are often also willing the same result.[91]

A state may adopt a new policy in accordance with a UPR recommendation, but this act may have in fact been the consequence of a decision of an international court, or the policy might already have been an existing preference of the government. This is a point that has been seemingly overlooked in some research on the UPR, as implementation has been presumed to indicate the impact of the mechanism. For instance, in their report 'The Butterfly Effect', UPR Info provide ten case studies of states that had implemented UPR recommendations, claiming that '[t]hey constitute concrete examples of improvements in civil, economic, political and social rights identified *as direct results of the UPR*'.[92] Etone, on Nigeria, also suggested that the state's implementation of 45 per cent of its recommendations 'indicated an important *contribution of the UPR* in improving the human rights situation on the ground'.[93] It is very possible that the UPR was the driving force of change observed by UPR Info and Etone, but in neither study was this proven. Of course, it is worth reiterating that causation may not be (easily) demonstrated. But unless this can be demonstrated,

[90] Notably, Etone, *UPR in Africa* (n 15).

[91] Leanne Cochrane and Kathryn McNeilly, 'The United Kingdom, the United Nations Human Rights Council and the First Cycle of the Universal Periodic Review' (2013) 17 *The International Journal of Human Rights* 152, 170.

[92] UPR Info, 'The Butterfly Effect: Spreading Good Practices of UPR Implementation' (2016) 4 https://upr-info.org/sites/default/files/documents/2016-11/2016_the_butterfly_effect.pdf accessed 1 August 2025. Emphasis added.

[93] Etone, 'Nigeria's Engagement with the UPR' (n 11) 296.

Table 2.8: Implementation status of first cycle UPR recommendations across 165 countries (UPR Info study)

Regional group	Implementation status (%)			
	Fully implemented	Partially implemented	Not implemented	Not assessed
Asia-Pacific Group	11%	22%	63%	4%
African Group	18%	32%	46%	4%
EEG	27%	36%	34%	3%
GRULAC	12%	37%	47%	4%
WEOG	24%	29%	44%	3%

we should carefully examine any claim that implementation is evidence of the UPR's impact.

Together, these issues – the lack of centralized follow-up, contradicting accounts, the quantity and breadth of recommendations, and proving causation – compound one another, making the task of accurately assessing implementation more challenging than the other aspects of state practice. It is perhaps for these reasons that the existing literature provides us with a limited picture of implementation globally, with data only being available for first cycle recommendations. A study by UPR Info found that 48 per cent of recommendations across 165 countries were seen to have been either fully (18 per cent) or partially (30 per cent) implemented by the mid-term.[94] It was also noted how rates differed between regional groups (see Table 2.8).

Another study by the Universal Rights Group of 74 countries found that 68 per cent of recommendations were fully (48 per cent) and partially implemented (20 per cent),[95] 25 per cent were not implemented and 7 per cent were not indicated (not assessed). As with UPR Info's study, the Universal Rights Group found divergence in practice across regional groups (see Table 2.9).

There are some similarities in the findings of the two studies. Both reveal relatively similar rates of recommendations that were partially implemented, and the Asia-Pacific Group is found to have the highest rate of non-implementation. Yet, there are also stark differences. The Universal Rights

[94] UPR Info, 'Beyond Promises: The Impact of the UPR on the Ground' (2014) https://www.upr-info.org/en/news/beyond-promises-study-and-side-event-assess-impact-upr accessed 13 Janaury 2026.

[95] Gujadhur and Limon (n 88).

Table 2.9: Implementation status of first cycle UPR recommendations across 74 countries (URG study)

Regional group	Implementation status (%)			
	Fully implemented	Partially implemented	Not implemented	Not assessed
Asia-Pacific Group	38.8%	18.7%	36.7%	6.3%
African Group	48.8%	20.7%	25.6%	4.8%
EEG	52.8%	32.0%	12.9%	2.3%
GRULAC	52.8%	23.2%	17.0%	7.0%
WEOG	47.8%	13.4%	26.7%	12.2%

Group found significantly more recommendations were fully implemented overall (30 per cent), especially for some regional groups, notably the Latin America and Caribbean Group (GRULAC) (40 per cent). Two factors likely account for the difference in findings. First, the Universal Rights Group assessed second cycle national reports which were submitted four years after states' first cycle reviews, whereas UPR Info's data was drawn from the mid-term point, approximately two years after reviews. Implementation rates could therefore have increased in the space of two years. Second, and perhaps the more significant factor, is that the two studies used different methods to measure implementation. Notably, while UPR Info drew on information provided primarily by civil society submissions, the Universal Rights Group specifically analysed states' second cycle national reports, which, as they are prepared by governments, will undoubtedly be more optimistic. This reinforces the earlier point regarding the difficulty of navigating contrasting accounts of governments and stakeholders. Nevertheless, we can draw some inspiration from UPR Info's Implementation Recommendation Index and take an average of the data from these two studies in an attempt to produce a more objective picture (see Table 2.10). Calculating the mean is appropriate given the two studies rely on actors that (likely) have competing views about the level of implementation.

As indicated earlier, there are no multi-state studies assessing the implementation of recommendations from the second or third cycles, and it is beyond the scope of this chapter to undertake a large-scale review of stakeholder or national reports. The implementation data presented here, then, is of only partial value in that it can only be reliably used as the empirical standards for assessing states' first cycle practice. It could be used as a basis for comparison for other cycles, but this data would represent at best a tentative estimate of states' implementation levels. In fact, it is reasonable to expect implementation to have dropped globally in the second

Table 2.10: Implementation status of first cycle UPR recommendations (average of UPR Info and URG studies)

Regional group	Implementation status (%)		
	Fully implemented	**Partially implemented**	**Not implemented**
Asia-Pacific Group	25%	20%	50%
African Group	33%	26%	36%
EEG	40%	34%	23%
GRULAC	32%	30%	32%
WEOG	36%	21%	35%
All states	33%	25%	36%

and subsequent cycles as the number of recommendations being made has increased. Further research on the second and subsequent cycles, of the sort undertaken previously by UPR Info and the Universal Rights Group, would significantly assist researchers in analysing state implementation practice.

Conclusion

Assessing state practice at the UPR is a valuable exercise and can provide important insights into the capacity of the mechanism to promote and protect human rights. It is apparent, though, that there are different standards against which states can be assessed, meaning we might interpret a state at the UPR in different ways. This is not a problem as such, but an agreed approach is desirable. Understanding assessments of state practice as 'exercises in comparison' helpfully reveals two yardsticks that can be used: ideal and empirical standards. Recognizing the value of both perspectives and using both standards in tandem provides a middle ground and should give a more complete, holistic picture of state practice. The third section of this chapter, in setting out these ideal and empirical standards for each state of the UPR, constitutes a framework which can be deployed in future research. There are, of course, some limitations to the framework. The lack of available data concerning some aspects of state practice, notably implementation, means that reliable empirical standards are difficult to determine. It will also lose value over time as the UPR's modalities and state practice inevitably shift. Researchers who wish to adopt this framework will need to consider this fact and be prepared to update it as the UPR reaches the end of the fourth cycle in 2027. Nevertheless, the ideas underpinning this framework should continue to have relevance and will continue to prompt discussion about how we do (and should) assess state practice at the UPR.

3

The UK at the Universal Periodic Review

Having elaborated a framework and set of standards for which to analyse state practice at the UPR, this chapter now shows how these can be applied. The UK provides a useful case study for this purpose because of its complex and sometimes tenuous relationship with international human rights law (in this respect, readers might find it helpful to revisit the book's Introduction which provides a very brief overview of this relationship since 2008).[1] This makes the UK fertile ground for observing a state at the UPR. Foremost, it is an opportunity for us to see whether the UPR, as a cooperative mechanism, can achieve its ends in a state that is otherwise considered a reluctant complier with international human rights law.[2] This chapter will therefore inform ongoing discussions about the utility of the UPR as a component of the international human rights machinery in such contexts. It will, equally, offer a different lens on the UK's commitment to and compliance with international human rights, complementing existing work on its engagement with other processes.[3] Taking this into consideration, this chapter observes the UK through the completed UPR cycles to date, up to and including the post-review stage of the fourth cycle. It should also be noted that the UK was among the first states to be reviewed at the UPR in its very first session (7–18 April 2008). At this point, states' expectations of one another had not yet fully formed and the UPR's modalities would develop further in subsequent years. Hence, there is only so much we can draw from the UK's first review in isolation. This chapter is structured around each of the

[1] See Chapter 1, 'Case study: the UK'.

[2] Courtney Hillebrecht, 'Implementing International Human Rights Law at Home: Domestic Politics and the European Court of Human Rights' (2012) 13 *Human Rights Review* 279.

[3] See, notably, Brice Dickson, *International Human Rights Monitoring Mechanisms: A Study of Their Impact in the UK* (Elgar Publishing 2022).

four stages: pre-review, the working group, post-review and implementation. We can turn first to the UK's preparations for the UPR.

Preparation for the UPR: the UK and the pre-review

The pre-review stage of the UPR cycle, as we saw in the previous chapter, requires the state under review to prepare its national report following a 'broad consultation process' with 'all relevant stakeholders',[4] and in accordance with the various decisions and resolutions of the Human Rights Council (HRC), notably 17/119.[5] It is important to reiterate, though, that while all states (with just two exceptions) have submitted their national reports, their practice has otherwise varied with respect to the consultation process and the presentation of reports. We can observe the practice of the UK during the pre-review stage by looking closely at its national reports and the information provided on its government websites. The first matter we can turn to examine is the drafting of the national report. All four of the UK's national reports have followed a clear, thematic structure and offered sincere insights into the protection of human rights, admitting where there have been failures or difficulties. For instance, in its first cycle report, it recognized the 'widespread misunderstanding' of the Human Rights Act 1998 across the public sector; and in its second report it accepted that the current care and support system was in need of 'urgent reform'.[6] From the second cycle, the UK's reports also point specifically to the actions taken to implement previous UPR recommendations, as well as reasoning where recommendations have not been implemented. All four reports also provide a brief explanation of the consultation methodology, though they do not detail the outcome of these consultations, nor the particular stakeholders involved. In these respects, the UK's reports are all consistent with the ideal standards, namely the HRC's general guidelines.[7] While the reports set out very few details about the consultations, this is not dissimilar to the practice of other states.[8] It may be said, then, that the drafting of the UK's national

[4] HRC, 'Resolution 5/1 Adopted by the Human Rights Council: Institution-Building of the United Nations Human Rights Council' (2007) UN Doc A/HRC/5/1, para 15(a).

[5] HRC, 'Decision 17/119 Adopted by the Human Rights Council on Follow-up to the Human Rights Council Resolution 16/21 with Regard to the Universal Periodic Review' (2011) UN Doc A/HRC/DEC/17/119.

[6] HRC, 'National Report Submitted in Accordance with Paragraph 15(A) of the Annex to Human Rights Council Resolution 5/1: United Kingdom of Great Britain and Northern Ireland' (2008) UN Doc A/HRC/WG.6/1/GBR/1, para 73 (UK First Cycle National Report).

[7] HRC, 'Resolution 5/1' (n 4) para 3(g).

[8] See Chapter 2, 'Pre-review', also UPR Info, 'Identifying Best Practices: An Analysis of National Reports' (2015) https://upr-info.org/sites/default/files/documents/2015-11/upr_info_identifying_best_practices_in_national_reports_2015.pdf accessed 1 August 2025.

reports appears reasonable and consistent with both the HRC's general guidelines and the practice of its peers.

There is more to be said, though, about the UK's consultation practice at this stage of the review cycle. Foremost, a consistent theme across all four cycles has been the absence of parliamentary involvement. Since the second cycle, the Government has routinely shared the UK's national report with Parliament's Joint Committee on Human Rights (JCHR) but only *after* it was submitted for the review. While this may have supported Parliament to critique the UK's report, this did not enable it to contribute to the consultations. It is pertinent to recall, though, that other states' parliaments have not been routinely involved in the UPR process, including in the pre-review consultations. The UK, then, is not an outlier in this regard. Its practice perhaps reflects the wider, global problem that parliaments lack a clearly defined role in international human rights processes.[9] Equally, in the UK, it is the Government that has traditionally exercised responsibility over the state's international affairs, with Parliament having only some control over areas such as treaty ratification.[10] Involving Parliament is something the UK should be doing at this stage. But given that these bodies' involvement in the UPR continues to be an emerging practice, and that there may be legitimate constitutional barriers to greater involvement in the UPR, it is important not to be overcritical of the UK.

Beyond parliamentary engagement, we can also observe how the UK has sought to consult with other stakeholders, notably national human rights institutions (NHRIs) and civil society organizations (CSOs). For the first cycle, the UK's national report explains that CSOs were consulted 'at an early stage of drafting',[11] though two organizations, both based in Northern Ireland, had not yet been consulted by the time they submitted their own stakeholder submissions, five months before the review.[12] There were

[9] Kirsten Roberts Lyer, 'Parliaments as Human Rights Actors: The Potential for International Principles on Parliamentary Human Rights Committees' (2019) 37 *Nordic Journal of Human Rights* 195.

[10] Constitutional Reform and Governance Act 2010, s 20.

[11] HRC, 'UK First Cycle National Report' (n 6) para 3.

[12] British Irish Rights Watch, 'Submission to the United Nations Human Rights Council's Universal Periodic Review Mechanism Concerning the United Kingdom' (2007) 5 https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRUnitedKingdomStakeholdersInfoS1.aspx accessed 1 August 2025. Similar comments were made by the NIHRC, see Northern Ireland Human Rights Commission, 'Submission by the Northern Ireland Human Rights Commission to the UN Human Rights Council's Universal Periodic Review' (2007) https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRUnitedKingdomStakeholdersInfoS1.aspx accessed 1 August 2025.

some notable developments for the second cycle, including the holding of 'engagement events' in London and Edinburgh, five months before the publication of the UK's national report, and a roundtable event in Cardiff one month before publication.[13] The Government's website also included an online survey for other participants not involved in the engagement events to have their say.[14] Similar engagement events were held at the start of the third cycle,[15] though similar concerns were raised by stakeholders in Northern Ireland about the timeliness of these consultations. The Human Rights Consortium's stakeholder report for the third cycle reveals that, as of September, one month before the planned engagement event in Northern Ireland, the Northern Ireland Executive had 'no clear plans for consultation with civil society in advance of the Third Universal Periodic Review'.[16] The practice of opening an online survey also ceased for the third and subsequent cycle. Finally, for the fourth cycle, the UK held eight 'virtual stakeholder events' which, the national report claimed, 'were attended by individuals from a broad range of civil society organisations'.[17] It remains unclear which areas of civil society have been targeted or which organizations have been invited to contribute to national report consultations. As noted earlier, this information has not been included in the UK's reports to date. Anecdotal evidence does suggest, though, that the UK's approach is selective. The UK-based non-governmental organization (NGO) Just Fair, reflecting after the UK's most recent, fourth review, said that 'it feels like the approach to who gets invited [to engage with the government regarding the UPR] is

[13] Ministry of Justice, 'UPR Events: Universal Periodic Review Engagement Events' (Retrieved through the National Archives Government Web Archive) https://webarchive.nationalarchives.gov.uk/ukgwa/20140205012858/, then http://www.justice.gov.uk/human-rights/universal-periodic-review/upr-events accessed 1 August 2025.

[14] Ministry of Justice, 'Universal Periodic Review' (Retrieved through the National Archives Government Web Archive) https://webarchive.nationalarchives.gov.uk/ukgwa/20120405135819/, then http://www.justice.gov.uk/human-rights/universal-periodic-review accessed 1 August 2025.

[15] HRC, 'National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: United Kingdom of Great Britain and Northern Ireland' (2017) UN Doc A/HRC/WG.6/27/GBR/1 para 5 (UK Third Cycle National Report).

[16] Human Rights Consortium, 'Submission from the Human Rights Consortium to the Third Universal Periodic Review of the United Kingdom' (2016) para 19 https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRGBStakeholdersInfoS27.aspx accessed 1 August 2025.

[17] HRC, 'National Report Submitted Pursuant to Human Rights Council Resolutions 5/1 and 16/21: United Kingdom of Great Britain and Northern Ireland' (2022) UN Doc A/HRC/WG.6/41/GBR/1, para 3 (UK Fourth Cycle National Report).

not one I particularly like because it really just depends on whether you get the tap on the shoulder, and that feels a little bit closed'.[18]

The holding of events to consult with stakeholders would in principle satisfy the need for a 'broad consultation process'. Holding these events around the country and online, as the UK has done, is important for ensuring the inclusion of all interested stakeholders. However, a notable issue, albeit one that had been identified from just a few sources, concerns the transparency of this process. The views of certain organizations suggests that stakeholders are not always kept informed about opportunities to contribute to consultations or, if they are, this is not necessarily timely. This does raise questions about whether the UK's approach is truly 'broad', as it claims, or rather more selective. If it is the case that stakeholders are left out of the process, either intentionally or inadvertently, this undermines several core principles of the UPR, not least stakeholder inclusivity and transparency.

Looking beyond the ideal standards expressed in the HRC's instruments, it is also useful to compare the UK's current practice to that of its peers. Once again, an empirically grounded assessment such as this is an important exercise to supplement the ideal assessments and moderate our observations of state practice. It is also plausible that this exercise might reveal best practice that goes beyond the ideal standards. For this purpose, the UK's practice was compared to that of the other 27 states in the WEOG with reference to their most recent national reports.[19] This reveals the UK's practice to be mostly consistent with its peers. Consultation events, workshops and dialogues (as distinct from other forms of consultation) are very common, being held in all but five of the Western European and Other States Group (WEOG) states.[20] In these ways, the UK's practice is similar to its peers. A notable observation, though, is that many states provide a certain amount of detail on the outcome of consultations,[21] in some cases in the form of extensive annexes to their reports. Though this is not a formal requirement

[18] Alice Storey and Melisa Oleschuk, 'Empowering Civil Society Organisations at the UPR' (2024) https://bcuassets.blob.core.windows.net/docs/empowering-csos-at-the-upr-full-report-133680282970363754.pdf accessed 1 August 2025.

[19] At the time of writing, these states are Andorra, Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Israel, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, Turkey and the UK. The United States is not a member of the WEOG but attends meetings as an observer. The United States was not included for the purpose of this analysis.

[20] The reports of Andorra, Monaco, San Marino, Luxembourg and Malta all referred to consultations, but there is no mention of specific events for this purpose.

[21] Israel, Ireland, New Zealand, Canada (in the annex to its report), Belgium, Finland, Iceland and Lichtenstein.

of the process, this is arguably an important, positive practice which has been highlighted by UPR Info among others, and which the UK could reasonably be expected to replicate.[22]

Based on these observations, the UK's preparation for the review adheres largely to the principles and modalities of the UPR process. One potential area of concern, though, is the consultation process, both in terms of the stakeholders involved and the means adopted to reach them. Despite several HRC resolutions recognizing the role of parliaments in the pre-review stage, the UK has also yet to involve its parliamentarians in consultations or the drafting of the national report. The UK's practice is, however, for the most part consistent with its peers in the WEOG. While there is clearly scope for the UK to improve its approach at this stage of the UPR, notably by reporting specifically on the outcome of its consultations, its practice is otherwise satisfactory.

The UK at the UPR working groups

Following submission of the national report, the state under review attends the working group. Here, the state delegation presents the national report and engages in an interactive dialogue with its peers, where it receives and can respond to recommendations. Two aspects of the UK's practice at the working group can be examined: its engagement in the dialogue, including the composition of its delegation, and the nature of the recommendations it receives.

Engagement in dialogue

Observing the composition of a state's delegation at the UPR can give an important insight into how the state seeks to present itself to the international community. As discussed in Chapter 2, the HRC does not set out specifically who must appear on behalf of the state, though it has resolved to emphasize the inclusion of parliamentarians and a gender perspective.

In the case of the UK, the working group has always been attended by the government minister responsible for domestic human rights and a team of senior civil servants (see Table 3.1). In 2008, the UK's delegation consisted of 23 members. Headed by Justice Minister Michael Wills, it was supported by eight representatives of the Permanent Mission of the UK in Geneva; seven civil servants from the Ministry of Justice, including its director general, and the lead of its Human Rights Division; and seven other senior civil servants drawn from other departments such as the Home Office and the Ministry

[22] UPR Info, 'Analysis of National Reports' (n 8).

Table 3.1: The head and size of UK delegations at its four UPR working groups

	UPR I (2008)	UPR II (2012)	UPR III (2017)	UPR IV (2022)
Head of delegation	Michael Wills	Lord Tom McNally	Sir Oliver Heald QC	Mike Freer
Size of delegation	23	24	12	17

of Defence.[23] Similarly, for its second UPR in 2012, the UK's 24-person delegation was headed by Justice Minister Lord Tom McNally. He was joined by nine representatives from the Permanent Mission, including its permanent representative; five senior civil servants from the Ministry of Justice; and various other civil servants, including legal advisers to other government departments.[24] For its third UPR in 2017, the UK's delegation was comprised of 12 members, led by Justice Minister Sir Oliver Heald QC. This was supported by three representatives from the Permanent Mission; senior civil servants from the Ministry of Justice's Human Rights and Intergovernmental Relations division; a legal advisor from the Government Legal Department; and three representatives from the human rights departments of each devolved government.[25] Finally, at its most recent UPR in 2022, the then Parliamentary Under-Secretary of State to the Ministry of Justice, Mike Freer, led a 17 member delegation comprising seven representatives from the Permanent Mission; six senior civil servants from the Ministry of Justice; and three representatives from each devolved government.[26]

Considering, first, the relevant ideal standards elaborated by the HRC, it is not possible to comment on the gender diversity of the UK's delegations as this information is not available from the working group reports, but it can be seen that parliamentarians have not been included in any of the UK's delegations to date. This is a continued theme from the pre-review stage and shows a further divergence from the various resolutions on parliaments and the UPR. Plausibly, this limits the awareness among parliamentarians and

[23] See annex to HRC, 'Report of the Working Group on the Universal Periodic Review: United Kingdom of Great Britain and Northern Ireland' (2008) UN Doc A/HRC/8/25 (UK First Cycle Working Group Report).

[24] See annex to HRC, 'Report of the Working Group on the Universal Periodic Review: United Kingdom of Great Britain and Northern Ireland' (2012) UN Doc A/HRC/21/9 (UK Second Cycle Working Group Report).

[25] See annex to HRC, 'Report of the Working Group on the Universal Periodic Review: United Kingdom of Great Britain and Northern Ireland' (2017) UN Doc A/HRC/36/9 (UK Third Cycle Working Group Report).

[26] See annex to HRC, 'Report of the Working Group on the Universal Periodic Review: United Kingdom of Great Britain and Northern Ireland' (2022) UN Doc A/HRC/50/10 (UK Fourth Cycle Working Group Report).

will hinder Parliament's contribution to the scrutiny and implementation of the UPR. Looking beyond the requirements of the process, though, it is important to reflect on the practice of other states, which reveals the UK is very much not alone in this respect. Globally, the number of parliaments represented in the working group remains low, and this is particularly the case for WEOG states.[27] This does not justify the failure to implement the HRC's resolutions, but it does suggest the reason for Parliament's lack of representation at the UPR may be a result of common factors that affect other states. We may once again recall the possibility that the international component of parliaments' work has not been as clearly demarcated as it traditionally has for the executive branch. Looking beyond the issue of parliamentary involvement, the UK's delegations otherwise suggest the state both takes the process seriously and considers it a means to improve domestic human rights. This is evident from the fact that the UK's delegations have always been headed by a minister for the department responsible for domestic human rights policy rather than of foreign affairs (though it is notable that there appears to be no consensus among WEOG states on this).[28] The delegations are also reflective of government more broadly, as the various departments that have clear human rights responsibilities (notably the Home Office) have also been routinely represented. Furthermore, since the second cycle, we can see that delegations have included representatives from all three devolved executives. This gives the impression that the UPR is also viewed as a *collective* process, involving the country as a whole, rather than just the central executive. During the dialogue itself, the UK's delegations have also used their limited time appropriately, keeping to the allocated 70 minutes. For the UK's first and second reviews, the delegation provided detailed answers to all written questions (of which there were 13 and 8 respectively). Even during the third and fourth reviews, where the UK received over 30 questions,[29] the delegations addressed the majority of these. Similarly, as states made their comments, UK delegations have always taken time to participate in the dialogue to answer questions or to provide explanations and information on the issues raised. This contrasts with those states that seek to avoid scrutiny by limiting their replies or using up considerable time presenting their national report.[30] Where the UK delegations have failed to do this because of dwindling time, efforts have

[27] See Chapter 2, 'The delegation'.

[28] Half (14/28) of WEOG states' delegations at the most recent reviews were headed by a minister responsible for foreign affairs: Belgium, Denmark, Finland, Germany, Andorra, Israel, Italy, Lichtenstein, Luxembourg, Monaco, San Marion, Spain, Switzerland and Turkey.

[29] Thirty received for UPR III, and 31 for UPR IV.

[30] See Chapter 2, 'Engagement in dialogue'.

been made to continue discussions outside of the working group. Following the UK's second review, for example, Lord McNally immediately met with representatives from CSOs and also corresponded with states' ambassadors to address unanswered questions from the interactive dialogue.[31] In these respects, the UK's engagement with the actual dialogue of the working group – a 'main event' of the UPR – is positive and suggestive of a genuine commitment to the mechanism.

Recommendations received

A fundamental aspect of the working group is the making and receiving of recommendations. Looking at a state's received recommendations provides a useful insight into its human rights situation, at least as viewed by the international community. There is no 'ideal' number of recommendations a state can receive, though as we saw in the previous chapter one way of making sense of a state's recommendation 'profile' is to compare it to the state's peers. Turning to the UK, two elements of the state's recommendations are observed here: the themes of recommendation and their verbiage and specificity (action categories). It is worth reiterating that the focus here is on individual recommendations as received at the working group, not the number of recommendations as recorded by the Office of the High Commissioner for Human Rights (OHCHR) in the working group report. For the UK, this means that it has received 737 individual recommendations – 35 at its first UPR, 137 at its second, 234 at its third and 331 at its fourth.

Table 3.2 presents a statistical analysis of the most common themes of recommendation received by the UK. A full thematic breakdown is provided in Table A.1 in the annexes.

Across all four reviews, there are some prominent, recurring themes, namely international instruments, rights of the child and the rights of migrants. Recommendations on international instruments and rights of the child are, as we saw in Chapter 2, equally as prominent globally as they are in the UK.[32] The salience of children's rights at the UPR perhaps reflects the global consensus on their importance, demonstrated by (near) universal ratification of the Convention on the Rights of the Child (CRC).[33] Turning to the regional level, though, the UK's recommendation profile very closely resembles other states in the WEOG. With the exception of the theme of

[31] UK Government, 'Universal Periodic Review Draft Statement for UK Outcome Session Thursday 20th September 2012' (2012) https://www.upr-info.org/sites/default/files/documents/2013-10/unitedkingdomplenarystatement2012.pdf accessed 1 August 2025.

[32] Chapter 2, Table 2.1.

[33] All UN member states, with the exception of the United States, have ratified the Convention.

Table 3.2: The five most common human rights themes from the UK's recommendations between 2008 and 2022

UPR I	%	UPR II	%	UPR III	%	UPR IV	%
International instruments	31	International instruments	29	International instruments	35	International instruments	23
Rights of the child	26	Rights of the child	20	Rights of the child	20	Rights of the child	17
Detention	17	Migrants	18	Racial discrimination	16	Racial discrimination	15
Migrants	14	Detention	15	Women's rights	14	Women's rights	12
Human rights and terrorism	11	Women's rights	13	Migrants	10	Labour rights	11

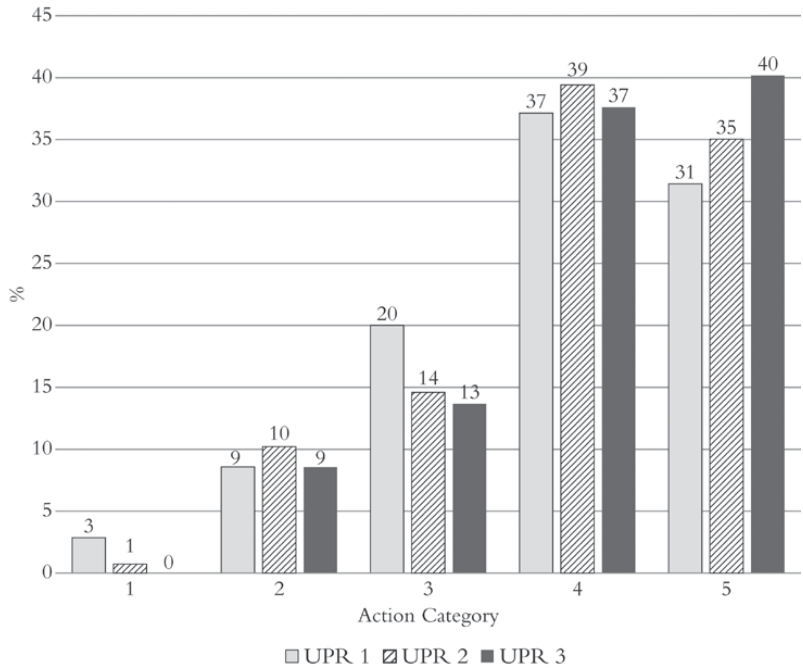
detention, which is more prominent for the UK in cycles one and two, and that of labour rights in cycle four, these five most common themes are almost identical to those in the rest of the WEOG.[34] The UK's recommendation themes are, in these respects, largely unremarkable.

Turning to the specificity of recommendations, Figure 3.1 shows the action category statistics for the UK's first three reviews. Data pertaining to the fourth review is not available at the time of writing.

When compared with the global picture, the action category statistics for the UK's recommendations are largely unremarkable. On average, across all cycles, as we saw in Chapter 2, 37 per cent of all states' recommendations fall within category four.[35] This closely correlates with the UK's category four statistics across its three reviews (37 per cent, 39 per cent and 38 per cent). One notable observation, however, is the percentage of received recommendations in categories five and two. Across all states, category fives have remained at 37 per cent since the second cycle,[36] and for WEOG states it has been at 37 per cent across all cycles.[37] For the UK, though, the amount of specific category five recommendations received at each review has grown since the first cycle, with a 4 per cent increase at the second review, and a further 5 per cent at the third. This means the UK is being increasingly asked to take more specific, direct measures to alter its human rights practices and is indicative of a decline in the human rights situation over the three UPR cycles (at least from the perspective of the UK's peers).

[34] Chapter 2, Table 2.2.
[35] Chapter 2, Table 2.3.
[36] ibid.
[37] Chapter 2, Table 2.4.

Figure 3.1: Percentage of recommendations received for each action category for the UK's first three reviews



Moreover, on category two recommendations, globally there has been a slow increase from 14 per cent in the first cycle to 20 per cent in the third,[38] and for WEOG states there has been an increase from 10 per cent to 19 per cent during the same period.[39] For the UK, category two recommendations have remained at 9–10 per cent across cycles one to three. We might expect, in a state where human rights are generally improving, to see an increase in category two recommendations which emphasize continuity. That we are not seeing this in the UK suggests that the direction it has taken with respect to human rights, according to its peers, has not been effective.

We should, however, exercise caution before accepting this analysis on its own, as the action category system is not without its flaws. Notably, recommendations with two verbs may not neatly fit into one of the five categories. One example from the UK suffices to demonstrate: 'Continue and strengthen the promotion of the rights of migrants residing in the United Kingdom'.[40] Use of the word 'continue' suggests this is placed in category two, yet, the second verb, 'strengthen', complicates the task of categorizing the recommendation. In fact,

[38] Chapter 2, Table 2.3.
[39] Chapter 2, Table 2.4.
[40] HRC, 'UK Third Cycle Working Group Report' (n 25) para 134.216.

UPR Info's database places this in category four as '[w]hen a recommendation starts with two verbs, the second one is privileged'.[41] It is not apparent why the second verb is privileged over the first. In any event, the freedom with which states must construct their recommendations will inevitably complicate any attempt to neatly categorize them based on the verbs used. At most, this statistical analysis of the UK's recommendations is a tentative assessment and cannot not be considered determinative of its human rights situation.

Overall, a number of notable observations can be made on the UK's engagement with the working group stage of its UPR. The UK's delegations and its participation in the interactive dialogue signal a genuine attempt to engage with the UPR process. A continued theme, however, is a continued lack of parliamentary involvement. Though the UK is most certainly not alone in this regard, it remains inconsistent with the various resolutions recognizing parliaments' role in the UPR. The UK's received recommendations are in many respects consistent with those of its peers, particularly in terms of the themes that emerge at the review, though the increase in category five recommendations, since the first cycle, does imply a decline in the UK's human rights practice.

Responding to the UPR: the UK's post-review practice

Between its working groups and the adoption of its reports, states are required to respond to their recommendations. Each can be 'accepted' or 'noted', and the expectation is that the former are then implemented by the state. It is worth reminding that the HRC resolutions do not require acceptance of any recommendation, nor does acceptance create binding obligations. However, acceptance is a significant act and indicates the state's willingness to be held to account on a given human rights issue. The data set out in Chapter 2 can act as an empirical yardstick for us to analyse the UK's responses and reveal its receptivity to critique and change.

Table 3.3 provides an overview of the total recommendations accepted by the UK across its four reviews when compared with the average statistics of all UN member states.

Before interrogating this data, it is pertinent to note that for the UK's fourth review, the state's responses diverged from the requirement to either 'accept' or 'note' recommendations. Instead, some were 'partially accepted'. These were recommendations that the UK 'might be supportive of one or more of the actions being recommended, but could not fully support the

[41] UPR Info and Edward McMahon, 'UPR Info's Database: Action Category' (2016) https://upr-info.org/sites/default/files/general-document/2022-05/Database_Action_Category.pdf accessed 1 August 2025.

Table 3.3: Percentage of recommendations accepted by the UK alongside global and regional rates

	UPR I	UPR II	UPR III	UPR IV (accepted)	UPR IV (partially accepted)
UK	63%	66%	41%	40%	15%
Global	73% (+10)	73% (+7)	75% (+34)	N/A	
WEOG	67% (+4)	68% (+2)	70% (+29)	N/A	

Note: Data is unavailable for the fourth cycle which is currently ongoing.

entire recommendation'.[42] Speaking at a parliamentary inquiry on the UK's engagement with its international human rights obligations, Rob Linham, Deputy Director of Rights Policy, further explained that the UK found such responses a 'useful way of indicating a nuance when it comes to a particular recommendation'.[43] It is not known how common this practice is beyond the UK, though six other states that presented their responses at the same time as the UK, during the HRC's 52nd session, used the similar categorization of 'partially accepted'.[44] This practice clearly challenges the UPR's modalities, which do not account for such responses. One of the key means of ensuring the legitimacy and rigour of the UPR is procedural consistency and equality. Where states diverge from the requirements of the process, including by entering unrecognized responses to recommendations, this undermines the UPR's coherence. Nevertheless, the fact that this practice is clearly not limited to the UK requires us to at least query the suitability of the UPR's modalities. The idea that a state should be able to 'partially accept' a recommendation seems sensible and encourages a state to accept what it can, especially as a single recommendation may, as we have already seen, contain several actions, some of which the state may be amenable to, and others it may not. Future research may need to look closely at state practice in this area to consider, first, how common it is for states to provide diverse responses to recommendations and, second, to consider whether the HRC may need to adapt the UPR's modalities. For present purposes, and to provide as fair as possible representation of the UK's position on its recommendations, partially accepted recommendations have been separated from those that are accepted.

[42] HRC, 'Report of the Human Rights Council on its Fifty-Second Session' (2024) UN Doc A/HRC/52/2, para 766.

[43] Joint Committee on Human Rights, 'Uncorrected Oral Evidence: The UK's Engagement with Its International Human Rights Obligations' (2024) https://committees.parliament.uk/oralevidence/14717/html/ accessed 1 August 2025.

[44] Morocco, Finland, Algeria, Indonesia, Poland and the Netherlands. Poland also 'rejected' some recommendations, see HRC, 'Report of the Human Rights Council on its Fifty-Second Session' (n 42).

For the UK's first and second UPRs, rates of acceptance are slightly lower when compared with both the global (+10 per cent) and regional statistics (+ 4 per cent).[45] The most notable deviation, however, is that for its third review the UK accepted 34 per cent less recommendations than the global average, and 29 per cent less than other states in the WEOG. This significant decrease in acceptance was criticized by the UK's national human rights institutions,[46] and numerous states post-review.[47] In fact, for the third cycle, the UK's rate of acceptance was the lowest of all states in the WEOG. While there are no global or regional statistics available for the fourth cycle, which is ongoing, assuming they were to remain similar to the third cycle, the UK's rate of acceptance (even if we include the 15 per cent of recommendations that are partially accepted) would be ~25 per cent lower than the global average, and ~15 per cent lower than the regional average. Overall, this suggests the UK has always been less amenable to change compared to its peers, but also that it has become increasingly less receptive over time.

Turning again to the action categories of accepted recommendations, global statistics show that categories three and five have the lowest rates of acceptance in each cycle. These patterns are reflected in the UK's rates of acceptance – category threes and fives have similarly been the least likely to be accepted (see Table 3.4).

The UK does, however, have lower than average rates of acceptance in these two categories when compared with the global average. This appears to be most prominent in cycle three, where the UK accepted only 22 per cent and 17 per cent of its category three and five recommendations respectively. Just over half of these (64 of the 126) are recommendations relating to international instruments – calling on the UK to ratify or sign treaties; withdraw reservations or declarations; or to simply consider these actions. Based on this, it could be suggested that the UK was especially reluctant at its third UPR to commit, or modify its commitments, to international treaties. It is accepted, as noted earlier, that observing action groups has its limitations. Furthermore, in some cases the number of certain categories of recommendations was very low, which limits the reliability of any statistical analysis.[48] In any event, the data implies that the UK is a state which, when compared to its peers, is less likely overall to commit to implementing UPR recommendations.

[45] See Chapter 2, Tables 2.5 and 2.6.

[46] Equality and Human Rights Commission, 'Briefing on the Universal Periodic Review: A Mid-Term Update (UK 3rd Cycle)' (2019) https://www.equalityhumanrights.com/briefing-universal-periodic-review-mid-term-update accessed 1 August 2025.

[47] HRC, 'Report of the Human Rights Council on Its Thirty-Sixth Session' (2018) UN Doc A/HRC/36/2 paras 668–672.

[48] Notably, in the third cycle, there were only 20 (9 per cent) of category two recommendations.

Table 3.4: Percentage of the UK's accepted recommendations by action category

Action Category	UPR I		UPR II		UPR III	
	UK	Global average	UK	Global average	UK	Global average
1	100%	97% (-3)	100%	94% (-6)	n/a	71%
2	100%	95% (-5)	100%	96% (-4)	65%	96% (+31)
3	57%	60% (+3)	40%	54% (+14)	22%	51% (+29)
4	69%	82% (+13)	87%	86% (-1)	68%	87% (+19)
5	45%	56% (+11)	44%	53% (+9)	17%	52% (+35)

Note: Data taken from UPR Info's Recommendation database, see https://upr-info-database.uwazi.io. At the time of writing, UPR Info have not collated the UK's fourth cycle recommendations. Data for this cycle is therefore unavailable.

In addition to setting out which recommendations are accepted and noted, states are encouraged (albeit not required) to 'express their views' on the outcome of their UPR.[49] As explained in Chapter 2, every state has made at least some comments on their UPR when it is adopted at the end of the HRC session. Some states, though it is not known precisely how many, provide specific responses to each recommendation in the form of an annex to their working group report. In the WEOG, such practice was identified in relation to 13 states following their most recent reviews.[50] Similarly, after all four of its reviews, the UK has provided comments both at the HRC session and in an annex with responses to each recommendation. Following the UK's second UPR, the delegation explained that the addendum was intended to provide some 'meaningful transparency' to the Government's decisions, and help 'inform ongoing discussions with civil society on [its] implementation of the recommendations'.[51] This is not the space for a critique of each and every reason provided by the UK, but some observations can be made about its general practice. First, though the UK has always supplied an annex outlining its reasons, its most recent set of responses for the fourth cycle were incomplete, with 158 recommendations (48 per cent) not accompanied by any reasoning, a notable regression in practice from previous cycles. Second, the reasoning provided does not always serve the intended purpose of providing transparency. Sometimes, there is a discrepancy

[49] Chapter 2, 'Post-review'.

[50] Denmark, Finland, France, Iceland, Ireland, Luxembourg, Malta, Norway, Portugal, Spain, Canada and New Zealand.

[51] UK Government, 'Universal Periodic Review Draft Statement for UK Outcome Session Thursday 20th September 2012' (n 31).

between the response entered against the recommendation and the reasoning provided. A good example of this is in response to a recommendation in the first cycle by the Russian Federation to 'enshrine in legislation the right of access of detainees to a lawyer immediately after detention, and not after 48 hours'.[52] The language of this recommendation is very specific. In accepting it, it was implied that the Government committed to ensuring access to a lawyer within this particular timeframe. Yet, the UK's response notes that immediate legal advice is only 'usually' available in 'non-terrorist cases', before outlining those situations where there may be a delay.[53] Finally, it is notable that in only some cases are the UK's responses accompanied with specific input from the devolved governments in Wales, Scotland and Northern Ireland. In its third cycle responses, Scotland's position is set out for 23 recommendations; Wales's for 10; and Northern Ireland's for 8.[54] For some recommendations this will likely be because that government does not have competence in the relevant area. Yet, this cannot possibly account for every recommendation without devolved input. In fact, the Scottish Government has begun providing its own, extensive set of responses to the UK's UPR, which illustrates how much it has to input.[55] It is curious why the Scottish Government does not (or cannot) provide these alongside or within the UK's annex.

Implementing the outcome

The primary task for states, following the adoption of their working group report, is to implement their recommendations. Alongside this, mid-term reporting is encouraged to inform subsequent UPRs and recommendations. As suggested in the previous chapter, implementation is a pivotal phase of the UPR process. It involves the translation, by the state, of recommendations into domestic policy and law. This should bring the state into line with its international human rights obligations and improve human rights on the ground. Implementation therefore fulfils two of the UPR's central

[52] HRC, 'UK First Cycle Working Group Report' (n 23) para 56.8.

[53] HRC, 'Report of the Working Group on the Universal Periodic Review: United Kingdom of Great Britain and Northern Ireland: Addendum' (2008) UN Doc A/HRC/8/25/Add.1, paras 7–9.

[54] HRC, 'United Kingdom, British Overseas Territories and Crown Dependencies: Annex to the response to the recommendations received on 4 May 2017' (2017) https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session27/GB/A_HRC_36_9_Add.1_UK_-_Annex.doc accessed 1 August 2025.

[55] Scottish Government, 'UN Human Rights Council Universal Periodic Review – fourth cycle recommendations: Scottish Government response' (2024) https://www.gov.scot/publications/un-human-rights-council-universal-periodic-review-fourth-cycle-november-2022-scottish-government-response-recommendations accessed 1 August 2025.

objectives.[56] For these reasons, the UK's engagement with this phase should be of particular interest.

Mid-term reporting is a wholly voluntary but important exercise that enables states and stakeholders to observe and comment on the progress made by the state under review. The UK has recognized the importance of mid-term updates in previous cycles, suggesting that 'the UPR was not just a three-and-a-half-hour dialogue that occurred for States every four years … Mid Term Reports and other updates were an important way to demonstrate ongoing commitment ahead of the next cycle'.[57] The UK has always committed, during the adoption of its UPRs, to provide a mid-term report and, thus far, it has always done so. Following its third UPR, the UK submitted two reports – one a year after the review and a second at the mid-term point. This makes the UK one of 26 states to have provided mid-term reports for the three completed cycles.[58] These facts alone are deserving of praise. Looking at the substance of these reports, they have been lengthy (partly owing to the number of recommendations received by the UK) and will have likely expended considerable resources to compile. Furthermore, many recommendations receive thorough updates and set out a raft of actions taken by the Government. On the other hand, it is doubtful whether these reports achieve the intended purpose of increasing transparency. Many comments provided in these reports are simply recycled from the detailed responses given post-review or, in the case of the UK's most recent mid-term update, comments can be as simple as '[t]he UK position remains unchanged' with no explanation as to *why* nothing has changed (this was the case for 77 (33 per cent) of the UK's third cycle recommendations).[59] Mid-term reports therefore suffer from the same shortcomings as detailed responses to recommendations. While it is a positive step to voluntarily supply this information, it is questionable whether it really enhances transparency, or whether it actually serves the contrary purpose of clouding accountability.

Turning to implementation, as we saw in Chapter 2, there is no formal process through which it is determined what recommendations a state has

[56] 'The improvement of the human rights situation on the ground; The fulfilment of the State's human rights obligations and commitments and assessment of positive developments and challenges faced by the State', see HRC, 'Resolution 5/1' (n 4) para 4(a) and (b).

[57] HRC, 'Report of the Human Rights Council on Its Thirty-Sixth Session' (n 47) para 667.

[58] At the time of writing, the UK's fourth cycle mid-term report is due but has not yet been submitted. On other states that have submitted for the three cycles, see Chapter 2, 'Follow-up and implementation'.

[59] UK Government, 'United Kingdom, British Overseas Territories and Crown Dependencies Universal Periodic Review – Mid Term Report' (2020) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/953430/uk-mid-term-report.pdf accessed 1 August 2025.

implemented. While subsequent reviews are supposed to focus on the actions taken in the preceding cycle, there is no mechanism in place that requires recommending states to focus on those matters. This means that researchers are required to either examine the state's progress for each recommendation independently or they must rely on secondary sources, including the assessments of the state under review in its mid-term reports and the reports by stakeholders. For present purposes, the latter method is adopted because plentiful quantitative and qualitative information is available for the UK. As we will see, though, this approach is not without its limitations.

For the first cycle, the UK's mid-term report published in 2010 provided an update on 22 recommendations.[60] For 12 of these, the UK's report used language to suggest they were fully or already implemented.[61] A mid-term report by the Equality and Human Rights Commission (EHRC) was also submitted in 2010 which welcomed progress on 6 of the 11 recommendations it assessed. In the other five areas, the Commission continued to express concerns. A review of all 35 recommendations was carried out a year later by David Frazier, who found that 55 per cent of recommendations were fully implemented.[62] These recommendations included those to remove reservations to the CRC, and to provide further information with regard to efforts to reduce poverty among children. This was the highest rate of implementation across the nine countries assessed in the study,[63] and 20 per cent higher than the average in the WEOG.[64] Thus, when compared with its peers, the UK's rate of implementation for the first cycle was very promising.

For subsequent reviews, however, we see a less clear picture. The UK's second cycle mid-term report, published in 2014, contains information of relevant action taken by the UK, but it did not specify the status of each recommendation's implementation (for example, fully or partially implemented). Instead, the terminology 'enjoy', 'enjoys in part' and 'does not enjoy' was used. If we assume, hesitantly, that these descriptions align with the status of implementation, then the mid-term report indicates that

[60] UK Government, 'Universal Periodic Review Mid-Term Progress Update by the United Kingdom of Great Britain and Northern Ireland on Its Implementation of Recommendations Agreed in June 2008' (2010) https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session1/GB/UKmid_term_report2010.pdf accessed 1 August 2025.

[61] ibid, see responses to recommendations 2–5, 7–9, 11, 15, 16–17 and 19.

[62] David Frazier, 'Evaluating the Implementation of UPR Recommendations: A Quantitative Analysis of the Implementation Efforts of Nine UN Member States' (2011) https://www.upr-info.org/sites/default/files/documents/2011-08/-david_frazier_paper_upr_implementation_2011-2.pdf accessed 1 August 2025.

[63] ibid.

[64] See Chapter 2, Table 2.10.

57 per cent of recommendations were fully implemented/enjoyed, 13 per cent were partially implemented/enjoyed in part, and 30 per cent were not implemented/not enjoyed. These statistics would be largely in line with the assessments of the first cycle. However, a 2016 British Institute of Human Rights report, developed with input from 174 organizations, provided a less optimistic picture. Here, the Institute concluded that of the 70 per cent of second cycle recommendations they analysed, 4.5 per cent had been 'met' by the Government, 42.5 per cent had received some action, and 53 per cent were not met.[65] Taking an average of the Institute's report and the UK's own assessment, we can estimate that 31 per cent of recommendations were fully implemented, 28 per cent were partially implemented, and 41 per cent were not implemented, demonstrating a downward trend in implementation from the first to the second cycle.

For the third cycle, the UK's mid-term report published in 2020 provided yet another change in the language used to describe its progress. Here, where there has been no action on recommendations, the report explains that the 'UK's position remains unchanged'. This is the case for 31 per cent of the recommendations. For all others, the report provides information on the action taken by the UK, but it is not clear whether it considers the relevant recommendation to be fully or only partially implemented. An alternative perspective can be found by looking at the EHRC's 'Human Rights Tracker'. The Tracker links UPR recommendations to 36 human rights topics across seven areas: general measures of implementation, health, education, work, living standards, justice, liberty and personal security, and participation.[66]

[65] British Institute of Human Rights, 'Joint Civil Society Report to the United Nations Universal Periodic Review of the United Kingdom (3rd Cycle)' (2016) https://web.archive.org/web/20220119040043/, then https://www.bihr.org.uk/Handlers/Download.ashx?IDMF=899c9202-602e-4244-b776-52ddaf6e79d3 accessed 1 August 2025.

[66] The 36 topics are: 1. Equality and human rights legal framework, 2. Inclusive education, 3. Adequate standard of living, 4. Social care, 5. Criminal justice institutions, 6. Human rights abroad, 7. Immigration, 8. Policing, 9. Independent living, 10. Human rights education, trainings and awareness raising, 11. International cooperation, including with human rights mechanisms, 12. Access to healthcare, 13. Educational attainment, 14. Social security (welfare benefits), 15. Counter terrorism, 16. Youth justice, 17. Political and civic participation, including political representation, 18. Institutional, policy and economic frameworks, 19. Health outcomes and experiences, 20. Mental health, 21. Reproductive and sexual health, 22. Harassment and bullying in schools, 23. School exclusions 24. Human trafficking and modern slavery, 25. Just and fair conditions at work, 26. Occupational segregation, 27. Housing, 28. Access to justice, 29. Hate crime, 30 Mental health detention, 31. Violence against women and girls, 32. Violence, abuse and neglect, and child sexual exploitation, 33. Family life, 34. Privacy, 35. Data collection and recording, and 36. Access to employment.

Figure 3.2: The progress made by the UK Government across the EHRC's human rights areas

For each topic, the EHRC assigns a progress measure: regression, no progress, limited progress, moderate progress and sustained progress. By observing the assessments made by the EHRC, it is possible to infer the extent of the progress made by the UK in implementing its third cycle recommendations. Table A.2 in the annexes sets out each human rights topic, the progress assessment and the associated UPR recommendations. Figure 3.2 shows the number of topics that relate to each progress category. The Tracker data presented here was accurate as of March 2024.[67]

Across the 36 human rights topics assessed, none were deemed to be seeing 'sustained progress'.[68] This means that no aspect of human rights in the UK was seeing legal or policy improvements, nor was there progress in terms of the enjoyment of rights by the wider population. *Moderate progress* was observed in two areas: data collection and recording, and access to employment.[69] These are related to three recommendations, all of which were actioned by the UK. Actions such as the establishment of the Inclusive

[67] Since undertaking this research, the Tracker has been updated. It now focuses primarily on recommendations of UN treaty bodies rather than the UPR, and the methodology has changed. A snapshot of the earlier version of the Tracker, which was used for this research, dated March 2024, can be found via the Web Archive https://web.archive.org/web/20240316094138/
https://humanrightstracker.com/en/overarching-progress/ accessed 1 August 2025. The new version which is updated periodically can be found at: https://www.equalityhumanrights.com/thehumanrightstracker

[68] Defined on the Tracker as areas where '[t]here have been legal or policy changes to improve human rights protections, and sustained progress in the enjoyment of human rights related to this issue for the wider population and/or specific groups'.

[69] Moderate progress is where '[t]here have been legal or policy changes to improve human rights protections and evidence of some sustained progress in the enjoyment of human

Data Taskforce[70] and a consultation by the Office for National Statistics on improving data inclusivity[71] will have contributed to the implementation of two recommendations made by the Netherlands and Pakistan.[72] Similarly, on access to employment, the progress observed here will have fulfilled the recommendation by Israel to enhance disabled persons' access to the workforce.[73] Seventeen of the 36 topics, covering 147 recommendations, were found to have *limited progress*. According to the EHRC, across these areas, there have been some legal or policy changes, but limited evidence of an improvement in the enjoyment of rights. Most recommendations linked to this progress assessment fall under the area of hate crime, which the EHRC suggest is seeing some improvements, though there are still a number of issues, including a disparity in protection for different groups, and victim dissatisfaction with how police handle cases. Eight human rights topics covering 89 recommendations were found to have seen *no progress*.[74] Most recommendations here concern the issue of international cooperation, and include recommendations for the UK to sign or ratify outstanding treaties and optional protocols, such as the International Convention for the Protection of All Persons from Enforced Disappearance, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW). Given that the UK has a propensity to note rather than accept recommendations on these issues, it is unsurprising to see no progress in this area. Finally, nine human rights topics, relating to 130 recommendations, were classified as being in *regression*.[75] The majority of these concerned the UK's 'equality and human rights legal framework' and immigration. The EHRC's assessments give us some insight into the level of implementation in the third cycle. Though it is not possible to say specifically how many recommendations

rights related to this issue. However, on some of these rights, or for some groups, there has not been comparative progress'.

70 UK Statistics Authority, 'Inclusive Data Taskforce' (2022) https://uksa.statisticsauthority.gov.uk/the-authority-board/committees/inclusive-data-taskforce/ accessed 1 August 2025.

71 UK Statistics Authority, 'Inclusive Data Consultation' (2021) https://consultations.ons.gov.uk/external-affairs/uk-statistics-authority-inclusive-data-taskforce-c/ accessed 1 August 2025.

72 HRC, 'UK Third Cycle Working Group Report' (n 25) paras 134.105–134.106.

73 ibid, para 134.209.

74 No progress is where '[t]here have been no legal or policy changes to improve human rights protections in relation to this issue, and very limited evidence of progress in the enjoyment of these rights'.

75 Defined as areas where '[t]here has been a sustained or severe regression in the enjoyment of human rights, or a significant reduction in human rights standards or protections in law or policy'.

have been implemented, the fact that so many were linked to areas seeing no progress or regression is suggestive of limited action on the part of the UK in the third cycle.

What, then, can we make of this evidence? On the one hand, it appears that, following the first cycle, during which the UK took positive steps, there are fewer clear signs that implementation has occurred after the second and third reviews. There is a notable discrepancy, then, between the UK's largely positive practice prior to and during the working group, and the subsequent action taken by the state at home. This is very reminiscent of what Hilary Charlesworth and Emma Larking have termed 'ritualism', defined as 'participation in the process of reports and meetings, but an indifference to or even reluctance about increasing the protection of human rights'.[76] Viewed in this way, the UK seems to treat the UPR as a process for process sake, rather than as a means to improve rights. Importantly, though, the UK is not alone in this regard. It is not known how prevalent ritualism is across states, but Charlesworth and Larking noted it as a common theme of the chapters in their collection[77] and some other authors have identified it in their own work.[78] This potentially lends to the conclusion that ritualism is in part a consequence of the UPR's modalities. Without a formalized, mandatory process of follow-up, it is easy to see why states would cooperate with the tightly controlled modalities but not by implementing recommendations.

Yet, this is at best a cautious assessment. What has been provided here is a broad, *overall* assessment of implementation across the three completed cycles. This does not provide us with insights about specific human rights issues. Moreover, despite the wealth of information available from the state and stakeholders, the differences in methodology and terminology used (for example, met, fully implemented, enjoyed) makes it very difficult to draw firm conclusions across cycles. We have also seen, as noted earlier in this chapter, that the number of recommendations received by the UK at each review has increased significantly. It is plausible that non-implementation is not the result of complacency or lack of political will, but the scale and complexity of the task. The UPR is not intended to be 'overly burdensome' but the increasing number of recommendations at each review arguably stresses this principle. In fact, at the HRC in 2017, the UK led a statement on behalf of 63 countries suggesting it would exercise 'restraint on the number of recommendations given to other states' so as to 'enhance the

[76] Hilary Charlesworth and Emma Larking (eds), *Human Rights and the Universal Periodic Review: Rituals and Ritualism* (Cambridge University Press 2014) 10.

[77] ibid 14.

[78] Damian Etone, 'African States: Themes Emerging from the Human Rights Council's Universal Periodic Review' (2018) 62 *Journal of African Law* 201.

visibility, coherence and implementation of recommendations'.[79] Certainly, without any formalized process of follow-up at the UPR, the increasing number of recommendations poses practical challenges for stakeholders and researchers. Finally, it is not possible, on the basis of this evidence alone, to draw a causal link between changes in domestic law, policy and practice, and the UPR. Simply, the material provided by the UK and stakeholders, as part of the UPR process, does not provide insight into causation. So, while this chapter has spoken of 'implementation', really what has been observed here is *compliance*.

In sum, an examination of the UK's implementation progress has allowed us to draw some hesitant conclusions about its approach to a critical stage of the UPR process. Equally, though, this exercise has further revealed the various conceptual and practical problems with the very task of assessing implementation, as discussed in the previous chapter. These challenges arise in part due to the UPR's set up and modalities (foremost the lack of follow-up) but are compounded by the inconsistent practice of the UK and stakeholders.

Conclusion

The primary purpose of this chapter was to demonstrate the applicability of the framework elaborated in the previous chapter. Applying the framework to the UK illustrates the usefulness of comparing state practice not just to the formal, 'ideal' requirements of the UPR process but also to the practice of other states, and the prior practice of the UK itself. Doing this provides for a more holistic, nuanced examination of a state's practice. Prior assessments of the UK's engagement with the international human rights mechanisms would lead us to expect that its practice across the three UPR cycles would be, on the whole, satisfactory. Leanne Cochrane and Kathryn McNeilly, on the UK's first review, considered the state to have 'conscientiously engaged with the UPR process'.[80] Similarly, Brice Dickson, commenting more generally on the UK's engagement with international human rights monitoring bodies, suggested that '[f]or its part, the UK engages with all monitoring bodies with an appropriate degree of respect'.[81] Indeed, from

[79] UK Mission in Geneva, 'Human Rights Council 34: Joint statement under Item 6 (Universal Periodic Review)' (2017) https://www.gov.uk/government/news/human-rights-council-34-joint-statement-under-item-6-universal-periodic-review accessed 1 August 2025.

[80] Leanne Cochrane and Kathryn McNeilly, 'The United Kingdom, the United Nations Human Rights Council and the First Cycle of the Universal Periodic Review' (2013) 17 *The International Journal of Human Rights* 152, 170.

[81] Dickson (n 3) 331.

what has been reviewed in this chapter, the UK's practice at the UPR is largely consistent with or goes beyond the formal requirements of the process. The provision of detailed responses and mid-term reports for all reviews to date is particularly respectable. There are some divergences, notably the absence of parliamentarians from the review process and inconsistent responses to recommendations. But these are issues that we see beyond the UK, suggesting a more systemic tension between the UN's expectations and state practice. In these respects, the UK engages with the process appropriately, demonstrating diligence and a commitment to the UPR. Nevertheless, when drawing comparisons to previous cycles and other states, issues with the UK's practice begin to emerge. Consultations with civil society are not as transparent as they are in other states, nor as they were in the UK in previous cycles. Overall, the UK has been less receptive to change compared to other states, as seen by its consistently low rate of accepting recommendations. And the evidence of its implementation, though certainly not conclusive, suggests a downward trend over time. It is more accurate, then, to say that while certainly the UK's engagement with the UPR *process* and *modalities* is thorough, the commitment and implementation of change (the very point of the process) is less encouraging.

This chapter has also highlighted the limitations of adopting an external perspective. What we have learned here is how the UK and stakeholders present the human rights situation to the international community and how that community has responded. This chapter has provided a meaningful insight into the UPR's impact, but it is an incomplete picture. If we were to focus wholly on what happens on the international level, we would miss the (potentially) important and unanticipated ripples that the UPR may cause domestically. Moreover if, like in the UK's case, the state or stakeholders do not provide evidence of the UPR contributing specifically to changes in law, policy or practice, then a purely external perspective cannot inform us about causation. It has become common in the literature to talk of implementation. But, in fact, what is likely being observed in many cases is compliance – state practice that is consistent with, but not necessarily the consequence of, UPR recommendations. To obtain a fuller understanding of the UPR's impact, we need to look beyond the confines of the process. Specifically, Part II of this book encourages us to look *internally*, within the state, at how the UPR and the state's international activity can influence its *domestic* activity. It is to these issues we now turn.

PART II

The Internal Perspective: The Universal Periodic Review in the State

4

Theorizing the Universal Periodic Review's Impact: The Role of Domestic Actors

Part II advances the second primary contribution of this book, namely an enhanced understanding of the impact of the Universal Periodic Review (UPR) *in* the state. This is an internal perspective which contrasts with what we saw in Part I. The UK will continue to be an enlightening case study for this purpose, not least because, as seen in the previous chapter, there is evidence to suggest a disconnect between its positive practice at the UPR and the subsequent implementation of its recommendations. Yet, the means to investigate the UPR's influence (or lack thereof) is not immediately clear. There is a corpus of scholarship on state compliance which offers various theoretical perspectives on why states do or do not fulfil their international human rights obligations. Some consider international institutions effective because they shame states that comply to avoid reputational consequences; others emphasize the importance of coercion.[1] Either of these explanations would, if applied to the UPR, require a researcher to look in different 'places' for the factors that contribute to its impact. This chapter draws on existing empirical research to clarify the theory that most appropriately explains the influence of the UPR on the state's promotion and protection of human rights. More specifically, the argument advanced is that to understand the UPR's impact, we must adopt an internal perspective and look *within* the state, particularly at the acts of and interactions between domestic actors. The theory of domestic mobilization explains that international human rights

[1] For an overview of different potential perspectives on state compliance and the UPR, see Damian Etone, 'Theoretical Challenges to Understanding the Potential Impact of the Universal Periodic Review Mechanism: Revisiting Theoretical Approaches to State Human Rights Compliance' (2019) 18 *Journal of Human Rights* 36.

law has effect by influencing national political dynamics and empowering individuals and institutions in the state by providing them with avenues, preferences and leverage to legitimize their claims. It follows that in order to understand why a given international mechanism is influential (or not), we must turn our attention inward to examine whether, to what extent and why it is deployed by domestic actors. This theory is presented here as an appropriate framework through which to understand the UPR's impact.

The first section of this chapter starts by revealing the difficulties with the currently posed explanation for the UPR's impact, namely the theory of acculturation, which suggests states' behaviour is shaped through a combination of 'cognitive and social pressures'.[2] While, on the face of it, the theory's application to the UPR seems sound, a closer look at the empirical evidence cited by its proponents reveals that it (wrongly) understates the mobilization of domestic actors in shaping states' behaviour. The second section reviews existing research on the UPR to defend domestic mobilization as a plausible explanation for the mechanism's impact. An analysis of this theory in light of existing empirical research on the UPR finds that the mechanism can empower domestic actors in two ways, by providing: (1) opportunities for dialogue with one another, and (2) recommendations and information on the state's human rights performance. Empirical evidence suggests that the UPR can have a modest impact when actors engage with these opportunities. It follows, therefore, that to understand the factors that contribute to or hinder the UPR's impact in a given state, we must look to the availability of these things, and domestic actors' ability and willingness to engage with them. Subsequent chapters focus in this regard on the UK's constitutional actors – the executive, legislature and judiciary – revealing useful insights on the UPR's potential and limitations.

The prevailing logic: acculturation

A useful starting point is to examine first how the current literature has sought to understand the UPR's impact. A notable theme of the UPR literature is the emphasis on sociological theory to explain the mechanism's impact. Just as individuals' psychology causes them to conform to and deviate from the actions of others, states may be motivated to act because of their social interactions with other states. The UPR has been frequently referred to as a platform for socialization between states, a view seemingly informed by constructivist theories of international relations that see states operating in an inherently social space. For instance, Rochelle Terman and Erik Voeten explain how 'human rights are said to diffuse through "peer

[2] ibid 49.

pressure'': conformity brings praise, increased social worth and esteem, while violation is met with shame, disapproval and isolation'.[3] Karolina Milewicz and Robert Goodin equally point to the function of peer pressure in the UPR process whereby states act in an attempt to 'look good'.[4] Jane Cowan and Julie Billaud argue that the implementation of recommendations might occur because, owing to its focus on cooperation and dialogue, states 'learn from ''best practice'' that is ''shared'' by their peers; together they collaborate in a joint project of human rights improvement'.[5] These depictions of the UPR as a social platform would appear to reflect its constructive and dialogical nature.

To date, the most notable and compelling application of social theory to the UPR is in the work of Damian Etone. They argue that the theory of 'acculturation', posed by Ryan Goodman and Derek Jinks, is the more 'suitable theoretical framework to understand the potential impact of the UPR'.[6] This is 'the general process of adopting the beliefs and behavioural patterns of the surrounding culture'.[7] This occurs through 'identification with a reference group' which can 'generate varying degrees of cognitive and social pressures – real or imagined – to conform'.[8] It might be questioned whether individual-level psychology can be applied similarly to states, though Goodman and Jinks' review of previous empirical research does demonstrate considerable support for this in the context of human rights. Indeed, an entire chapter in their book *Socialising States*, entitled 'The Empirical Record', is geared toward evidencing acculturation.[9] Here, Goodman and Jinks reflect on evidence on a range of substantive human rights areas including constitutional design, children's rights, female suffrage and domestic violence.[10] Together, these reveal acculturation to be a thorough and convincing theory which shows how social processes influence states' behaviour.

Etone's application of this theory to the UPR is equally persuasive. It is suggested that acculturation shows a 'preference' for soft law, cooperative

[3] Rochelle Terman and Erik Voeten, 'The Relational Politics of Shame: Evidence from the Universal Periodic Review' (2018) 13 *Review of International Organizations* 1.

[4] Karolina M Milewicz and Robert E Goodin, 'Deliberative Capacity Building through International Organizations: The Case of the Universal Periodic Review of Human Rights' (2018) 48 *British Journal of Political Science* 513, 528.

[5] Jane K Cowan and Julie Billaud, 'Between Learning and Schooling: The Politics of Human Rights Monitoring at the Universal Periodic Review' (2015) 36 *Third World Quarterly* 1175, 1176.

[6] Etone, 'Theoretical Challenges' (n 1).

[7] Ryan Goodman and Derek Jinks, 'How to Influence States: Socialization and International Human Rights Law' (2004) 54 *Duke Law Journal* 621, 638.

[8] ibid 639.

[9] Ryan Goodman and Derek Jinks, *Socializing States* (Oxford University Press 2013) ch 4.

[10] ibid 60–86.

mechanisms like the UPR. Reflecting on the examples of Nigeria and Uganda, it is explained how coercive measures can generate 'backlash', and that this might be avoided through a more cooperative approach. Through acculturation, the UPR may transform 'the social and political culture through social and cognitive pressures' and 'contribute to incrementally improving the human rights situation on the ground'.[11] Etone suggests that the mechanism's 'cornerstone principles' of universality and cooperation 'can be effective in harnessing the social and cognitive pressures associated with acculturation'.[12] Empirical evidence for this is also found in Etone's work. His case study on South Africa's engagement with the UPR is particularly enlightening: the fact that, to date, the state had improved its approach to the UPR across the three cycles substantiates the claim that repeated interactions with peers contributes to compliance. More recently, Lukas Glušac has produced evidence for the applicability of acculturation. Their finding – that the UPR contributed to changing attitudes in Norway, Sweden and Italy toward the establishment of national human rights institutions (NHRIs) – is indicative of the social and cognitive pressures that state peers can apply.[13] In sum, that the UPR's impact is affected by its ability to socialize states is a compelling and well-evidenced view.

Despite its appeal, however, acculturation suffers a notable flaw, namely that it appears to understate the mobilization of domestic actors in shaping states' behaviour. In considering the influence of domestic actors, Goodman and Jinks suggest that it is a 'mistake to assume that effective international human rights efforts need support from local advocates or domestic publics'.[14] Instead, they suggest that compliance can occur 'top-down' even in the absence of domestic support or mobilization.[15] To support this contention, they cite a number of studies that they argue demonstrate the role of international socialization as opposed to domestic political interactions. For instance, certain observations from Hawkins and Humes are highlighted, including their finding that 'international socialization is more important than domestic politics' in getting 'nonconformist states to change their policies to meet the standards of new international norms'.[16] Also cited is a study on the granting of women's suffrage which found that 'countries apparently

[11] Etone, 'Theoretical Challenges' (n 1) 15.

[12] ibid 15–16.

[13] Lukas Glušac, 'Universal Periodic Review and Policy Change: The Case of National Human Rights Institutions' (2022) 14 *Journal of Human Rights Practice* 285.

[14] Goodman and Jinks, *Socialising States* (n 9) 157.

[15] ibid.

[16] Darren Hawkins and Melissa Humes, 'Human Rights and Domestic Violence' (2002) 117 *Political Science Quarterly* 231, 256.

are affected much less strongly by internal factors and much more strongly by shifts in the international logic of political citizenship'.[17]

Both studies suitably evidence the role of acculturation, but neither conclusively support Goodman and Jinks' contention that the significant involvement of domestic actors is not necessary for affecting change. Hawkins and Humes' study actually emphasizes the need to exercise 'caution', stating that in some circumstances socialization will not have a 'profound impact, especially in the short term'.[18] Instead, they propose that 'state interaction is likely to create an initial discursive commitment that can only be deepened over time through the efforts of interested domestic groups'.[19] Equally, on the matter of women's suffrage, while it is true that the later period examined by the authors (1931–90) demonstrates the influence of international-level factors, the granting of suffrage in the earlier period (1890–1930) was believed to be driven by states' strong civil society.[20] So, these studies, far from suggesting that the significant involvement of domestic actors is not pivotal, reveal that it is an essential factor in driving state compliance.

That acculturation fails to give account for domestic factors is a particular problem when it is applied to the UPR. As will be elaborated later, existing empirical research on the UPR seems to suggest that it does have an influence on states' domestic politics. What is not suggested here, however, is that acculturation (or constructivist logic more widely) is not *at all* suitable for appreciating the UPR's impact. Rather, it is probable that domestic mobilization and acculturation operate concurrently, influencing compliance in tandem. This is the view of Risse, Ropp and Sikkink, who have sought to integrate constructivist and rational choice models.[21] Zürn and Checkel have been equally keen to encourage scholars to search for complements between these two often competing perspectives,[22] yet argue that domestic factors still appear to be more prominent causal mechanisms.[23] Goodman

[17] Francisco O Ramirez, Yasemin Soysal and Suzanne Shanahan, 'The Changing Logic of Political Citizenship: Cross-National Acquisition of Women's Suffrage Rights, 1890 to 1990' (1997) 62 *American Sociological Review* 735, 742.

[18] Hawkins and Humes (n 16) 257.

[19] ibid.

[20] Ramirez, Soysal and Shanahan (n 17) 741.

[21] The authors' 'Five-Stage Spiral Model' seeks to 'integrate rational choice and constructivist approaches', see Thomas Risse, Stephen Ropp and Kathryn Sikkink (eds), *The Power of Human Rights International Norms and Domestic Change* (Cambridge University Press 2007) 273.

[22] Michael Zürn and Jeffrey T Checkel, 'Getting Socialized to Build Bridges: Constructivism and Rationalism, Europe and the Nation-State' (2005) 59 *International Organization* 1045.

[23] Their review of articles submitted for a special issue on European socialization led them to conclude that 'while socialization research has typically been construed as constructivism's home turf, this volume's emphasis on mechanisms and scope conditions reveals that rational choice has much to contribute here as well'. They go on to argue that 'while there are

and Jinks do not engage with these claims in their work.[24] Considering this in the context of the UPR, it may be that acculturation could explain why states commit to accepting certain recommendations (this could be what Hawkins and Humes refer to as the 'initial discursive commitment' that socialization can facilitate).

It is argued here that domestic mobilization is better suited to explain states' compliance[25] with UPR recommendations and its impact on the ground. We can turn first to explain and examine the theory generally before analysing its suitability as a framework for appreciating the UPR's impact.

Domestic mobilization: impact through domestic politics

According to domestic mobilization, international law, principally international *human rights* law, affects changes in the states by empowering local, *domestic* actors. Underpinning this theory is the assumption that states are not unitary but a 'sum of many different parts'.[26] Treaties, the findings of international courts and bodies, and other instruments of international law can 'creep' into domestic affairs and legitimize and support the claims of actors who can leverage these to influence the promotion and protection of human rights in the state.[27] Thus, rather than emphasizing relationship between states and international factors, domestic mobilization supposes that 'important sources of compliance lie *inside* the state'.[28] In order to understand the impact of international human rights (or lack thereof), we must turn our attention inward to the action of and interaction between domestic actors. The most important in this regard are the arms of the state – the constitutional actors – namely the government, legislature and judiciary. International human rights law can shape and inform the decisions

good conceptual reasons for expecting a predominance of international socialization in Europe, the empirical cases instead suggest that effects of socialization are often weak and secondary to dynamics at the national level', see ibid 1047. Also see similar findings in Jeffrey T Checkel, 'Why Comply? Social Learning and European Identity Change' (2001) 55 International Organization 553.

24 Checkel is only cited twice in *Socialising States* in relation to his work on persuasion and learning, Goodman and Jinks, *Socialising States* (n 9) 24.

25 On the term 'compliance', see Chapter 2, 'Implementation and follow-up'.

26 Oona A Hathaway, 'Do Human Rights Treaties Make a Difference?' (2002) 111 *Yale Law Journal* 1935.

27 Emilie Hafner-Burton, *Making Human Rights a Reality* (Princeton University Press 2017) 11.

28 Jana Von Stein, 'The Engines of Compliance' in Jeffrey L Dunoff and Mark A Pollack (eds), *Interdisciplinary Perspectives on International Law and International Relations: The State of the Art* (Cambridge University Press 2013) 483. Emphasis added.

of these three branches in diverse ways. A state's government might rely on certain international commitments as a means of 'setting the agenda' and providing support for a certain policy change that would have otherwise been unpopular or unachievable in the absence of that commitment.[29] Opposition politicians or legislative committees may refer to a treaty to strengthen their claims that, for instance, a proposed law with human rights implications should be amended or dropped. Or a litigant may persuade a court to draw on the state's international obligations to inform its judgment. In the event of a disagreement between these branches, the outcome – whether a state is compliant with an obligation or not – will necessarily come down to which of the three has the greatest institutional power. Notwithstanding the significance of constitutional players, other institutions and groups, including NHRIs, non-governmental organizations (NGOs), pressure groups and the media, can also deploy international human rights. While these actors may not occupy a position of power to change human rights law, they are central for facilitating transparency about the state's compliance with international human rights and for 'nudging state actors and political parties toward compliance'.[30]

Evidence for the validity of this perspective can be found primarily in the scholarship on human rights treaties. Eric Neumayer's modelling shows that it is primarily states with democratic institutions and strong civil societies that are most likely to have improved human rights following the ratification of treaties.[31] Oona Hathaway equally shows that the 'strongest democracies may be more likely to adhere to their treaty obligations because [of] the existence of internal monitors'.[32] Building on this, Beth Simmons argues that it is primarily domestic actors that utilize human rights instruments to enhance the protection of rights on the ground.[33] Their case studies, which show the use of treaties to inform domestic litigation, are especially telling. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) was clearly influential in affecting landmark decisions in Israel and Chile. Similarly, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was used to facilitate changes in Japan and Columbia. In explaining why this occurs, Simmons suggests that 'no one has a more consistent, intense interest in whether and

[29] Beth Simmons, *Mobilising for Human Rights: International Law in Domestic Politics* (Cambridge University Press 2009) 127–129.

[30] Courtney Hillebrecht, *Domestic Politics and International Human Rights Tribunals: The Problem of Compliance* (Cambridge University Press 2014) 22.

[31] Eric Neumayer, 'Do International Human Rights Treaties Improve Respect for Human Rights?' (2005) 49 *Journal of Conflict Resolution* 925.

[32] Hathaway (n 26) 2020.

[33] Simmons, *Mobilising for Human Rights* (n 29).

how a government complies with its human rights commitments than the human beings on the ground in that country'.[34] Treaties, she claims, 'provide highly legitimate focal points that help to clarify reasonable demands'.[35] As discussed later, similar conclusions can be drawn in relation to the UPR and its potential to impact human rights on the ground.

Though it has found its application primarily in the context of treaty compliance, domestic mobilization is also argued to be central to the implementation of international court decisions and recommendations. Alice Donald and Philip Leach have led the way in highlighting the contributions that state parliaments make in affecting decisions of the European Court of Human Rights (ECtHR).[36] This research would appear to reflect a more general recognition, in recent decades, of parliaments' capacity to influence state compliance.[37] The engagement of parliamentarians with the UPR is, equally, considered pivotal for its impact.[38] Other international entities, such as UN treaty bodies, are also believed to have influence through states' domestic political processes. Jasper Krommendijk's case studies on the Netherlands, New Zealand and Finland found that treaty bodies' concluding observations 'can give strength to the arguments and demands of domestic actors in persuading governments to change their policy or legislation'.[39] In all, this body of evidence strongly indicates that state compliance, with a range of international mechanisms and instruments, appears to be at least in part driven by domestic politics.

Despite this empirical support, domestic mobilization is not free from critique. Eric Posner contends that: 'there is a certain oddness to the argument that domestic pressure or mobilisation explains states' compliance with human rights treaties. If domestic pressure can force a government to respect human rights, then it will do so regardless of whether the government enters into a human rights treaty.'[40] Posner does accept that domestic litigation may 'cause countries to comply with human rights treaties' though submits that this 'happens rarely'.[41] The essence of Posner's

[34] ibid 356.

[35] ibid 357.

[36] Alice Donald and Philip Leach, *Parliaments and the European Court of Human Rights* (Oxford University Press 2016).

[37] See Chapter 6, generally.

[38] HRC, 'Report of the Office of the United Nations High Commissioner for Human Rights: Contribution of Parliaments to the Work of the Human Rights Council and Its Universal Periodic Review' (2018) UN Doc A/HRC/38/25.

[39] Jasper Krommendijk, 'The Domestic Effectiveness of International Human Rights Monitoring in Established Democracies. The Case of the UN Human Rights Treaty Bodies' (2015) 10 *Review of International Organizations* 489, 508.

[40] Eric Posner, *The Twilight of Human Rights* (Oxford University Press 2014) 83.

[41] ibid 85.

argument is that international human rights are not effective tools to be utilized by domestic actors. They do not add anything valuable to the political equation. However, it is questionable whether this claim can be substantiated, especially if we consider the empirical research noted earlier. Posner does not, at least in the text cited, point to any research to evidence his claim. Simmons's work alone, as already noted, clearly illustrates the potential for international law to influence the reasoning of courts in select countries. Far from being a rarity, international human rights instruments can and have frequently had a dramatic impact on the development and interpretation of domestic law, even where these are not directly effective in a state.[42] It is therefore difficult to contend that international human rights have not proved an asset in domestic actors' toolboxes. A second critique, as identified by Hathaway, is that it is of little use in research as it 'has difficulty generating predictions' and could 'be reduced to the unenlightening truism that if a country acts in a particular way, it must be because domestic politics made it do so'.[43] Admittedly, it can be difficult to draw a causal link between the acceptance or ratification of a certain instrument and activity within a state's political processes. It is not always clear, even upon close examination of, for instance, policy documents or parliamentary proceedings, whether international human rights considerations have informed a state's policies or laws. Yet scholars, including those noted previously, have adopted a myriad of methods to evidence the validity of domestic mobilization. When focusing on numerous states, for instance, research has turned to quantitative analyses of data to observe correlations between human rights and democracy 'scores'.[44] Smaller samples or case studies on single states, on the other hand, have adopted document analyses or interviews to identify whether domestic actors actually utilize international human rights and whether this has an impact on the success of policy changes.[45] For these reasons, domestic mobilization is a suitable framework for understanding state compliance. More specifically, it is argued here that the theory is a particularly useful lens to understand the UPR's impact. We can now turn to evidence this point.

[42] For instance, in the UK, a dualist state, the European Convention on Human Rights had a significant impact on the development of the common law in the decades before it was implemented domestically. The ways in which this occurred were set out usefully by Lord Bingham MR in a parliamentary debate, see HL Debs, 3 July 1996, vol 573, col 1465–1467.

[43] Hathaway (n 26) 1953–1954.

[44] For example, Simmons, *Mobilising for Human Rights* (n 29).

[45] For example, Krommendijk (n 39).

Domestic mobilization and the UPR

A review of empirical evidence reveals the UPR empowers domestic actors in two principal ways: (1) it stimulates dialogue and collaboration between actors, and (2) it gives leverage in the form of recommendations and information about the state's human rights performance, which can be used to legitimize actors' claims. If domestic actors engage with these opportunities – to engage in dialogue, or to deploy recommendations as leverage – the UPR may contribute to the promotion and protection of human rights. We can now consider these points in turn.

Stimulating domestic dialogue

Dialogue is a crucial feature of the UPR process and is perhaps most evident from the review of the state, which, as already discussed, takes the form of an interactive dialogue between state delegations at the Human Rights Council (HRC) working group. The less obvious site of dialogue facilitated by the UPR, however, is that which is stimulated domestically. Moss has argued that the most significant opportunities provided by the UPR to NGOs were not in Geneva but 'internally in societies around the world'.[46] Indeed, it can be seen that the UPR stimulates and provides an opportunity for a myriad of public and private actors and institutions, including NGOs, to engage with one another.

During the pre-review phase, discussions will be initiated through the 'broad consultation' required prior to the drafting of the national report. UPR Info's analysis of 84 national reports from the second cycle revealed that 94 per cent of these included a specific section on the consultation methodology.[47] Though the credibility of states' claims in these reports could be open to question, this nevertheless indicates some level of dialogue being broached between the executive and other actors at this phase. Equally, here, the executive will necessarily have to draw on information from various departments and agencies in order to compile the state's national report. The Office of the High Commissioner for Human Rights (OHCHR) refer to this as the 'stimulation of national dialogue'.[48] At the working group, the

[46] Lawrence C Moss, 'Opportunities for Nongovernmental Organization Advocacy in the Universal Periodic Review Process at the UN Human Rights Council' (2010) 2 *Journal of Human Rights Practice* 122, 148.

[47] UPR Info, 'Identifying Best Practices: An Analysis of National Reports' (2015) https://upr-info.org/sites/default/files/documents/2015-11/upr_info_identifying_best_practices_in_national_reports_2015.pdf accessed 1 August 2025.

[48] United Nations Office of the High Commissioner, 'Reporting to the United Nations Human Rights Treaty Bodies Training Guide' (2017) 27 https://www.ohchr.org/en/publications/professional-training-series/reporting-un-human-rights-treaty-bodies-part1 accessed 1 August 2025.

opportunity for inter-actor dialogue may not be immediately obvious given that, as noted earlier, this is an inter-state activity involving state delegations (and, in some cases, the state's NHRIs). However, the recommendations made by states often reflect those forwarded by domestic actors in their stakeholder submissions. Research by Lawrence Moss on 16 states' reviews found that 70 per cent of the concerns raised by NGOs in their reports corresponded to state recommendations.[49] A 2013 study by McMahon found a similar rate of correlation.[50] Thus, one could conceive of recommendations, and their responses from the state under review, as a form of discourse between governments and civil society. Post-review, governments will decide on the appropriate responses to each received recommendation, something that will necessarily prompt further discussion between departments and external stakeholders.[51] There is also another opportunity for NHRIs and civil society organizations (CSOs) to present their views on the state's review at the HRC plenary when its UPR is adopted.[52] Finally, during implementation, the discourse and collaboration between domestic actors will be necessary to facilitate and encourage the translation of recommendations into law and policy. Within governments, ministries and departments will need to work together, particularly on those recommendations that affect different policy areas. Of particular note here, too, are parliaments. Though in many states (including the UK) the government will be the principal initiator and driver of policy change, parliament's cooperation will be necessary if implementation requires legislation.[53] At this stage, voluntary mid-term reporting by states, though admittedly not commonplace,[54] is also observed to be undertaken in consultation with stakeholders.[55]

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[49] Moss (n 46).

[50] Edward McMahon, 'The Universal Periodic Review: Do Civil Society Organization-Suggested Recommendations Matter?' (Friedrich Ebert Stiftung 2013) https://library.fes.de/pdf-files/iez/10343.pdf accessed 1 August 2025.

[51] OHCHR, 'Letter from President of the HRC, Federico Villegas, to UN Member States, dated 1 November 2022 (2022) https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/Letter-HRC-President-Member-States-UPR-4th-cycle.pdf accessed 1 August 2025.

[52] HRC, 'Resolution 5/1 Adopted by the Human Rights Council: Institution-Building of the United Nations Human Rights Council' (2007) UN Doc A/HRC/5/1, para 31.

[53] On the role of parliaments and legislation for implementation of UPR recommendations, see Chapter 6.

[54] According to the OHCHR website, 84 states to date have submitted mid-term reports, see OHCHR, 'UPR Mid-Term Reports' https://www.ohchr.org/en/hr-bodies/upr/upr-implementation accessed 1 August 2025.

[55] UPR Info, 'UPR Mid-Term Reporting: Optimising Sustainable Implementation' (2018) https://upr-info.org/en/news/publication-launch-good-practices-upr-mid-term-reporting accessed 1 August 2025.

These avenues, made available through the UPR, facilitate ongoing communication between domestic actors and governments throughout the four-and-a-half-year cycles. Its cyclical nature may, in fact, make it particularly advantageous for domestic actors to utilize instead of other mechanisms. Kathryn McNeilly, focusing on the temporal ontology of the UPR, suggests that actors can develop 'strategic action in harmony with the UPR cycle at the national level'.[56] Undoubtedly, the regularity with which its cycles run means that organizations can better plan and allocate their often-limited resources efficiently.[57] This is not the case with other international mechanisms, such as the treaty bodies, largely because their review cycles do not operate with as much consistency as the UPR.

It is clear, too, that when domestic actors engage in these opportunities for dialogue, this can lead to positive improvements in human rights on the ground. Speaking on the effects of reporting to the Committee for CEDAW, Beth Simmons and Cosette Creamer find that 'discussing human rights engages interested domestic publics, who are in a better position, armed with legal rights and better information, to hold their governments accountable'.[58] They suggest that '[i]t might be useful to move away from conceptions of the treaty body report-and-review process as a strong enforcement measure, and instead to think of the whole process as more of a dialogue, or as Zwingel puts it, "a constant process of negotiating and re-negotiating norms"'.[59] Parallels can be seen in the literature on constitutional dialogue theory. It is posited that continual back-and-forth discussions between actors can improve the practice of interpreting, reviewing, writing or amending constitutional text.[60] Though most often used in the context of interactions between state institutions, notably courts, the theory has equally been applied to other domestic actors.[61] Evidence for the benefits of inter-dialogue can be found in relation to the UPR. UPR Info explains that dialogues 'establish a joint understanding between actors of their

[56] Kathryn McNeilly, 'The Temporal Ontology of the Human Rights Council's Universal Periodic Review' (2021) 21 *Human Rights Law Review* 1, 9.

[57] Moss likewise explains that 'NGOs can engage in a continuous four-year cycle of advocacy built around UPR', see Moss (n 46) 148.

[58] Cosette D Creamer and Beth A Simmons, 'The Dynamic Impact of Periodic Review on Women's Rights' (2018) 81 *Law and Contemporary Problems* 31, 71–72.

[59] ibid 72. Citing Susanne Zwingel, 'How Do Norms Travel? Theorizing International Women's Rights in Transnational Perspective' (2012) 56 *International Studies Quarterly* 115, 126.

[60] Anne Meuwese and Marnix Snel, '"Constitutional Dialogue": An Overview' (2013) 9 *Utrecht Law Review* 123.

[61] ibid 134. The table provided demonstrates the variety of institutional contexts in which constitutional dialogue has been applied.

respective needs, opportunities and challenges' which may enable a 'baseline for continued cooperation'.[62] Indeed, a number of examples reveal where this dialogue and collaboration has proven fruitful. One is the conversations facilitated between the Kenyan executive and Kenya's Stakeholder Coalition for the UPR. Etone explains how the UPR enabled discussions on issues such as sexual orientation and the death penalty[63] which, UPR Info claim, 'contributed to building a mutual understanding of each other's needs, opportunities and challenges in the implementation phase'.[64] Admittedly, Kenya's subsequent UPR revealed few improvements on the ground for LGBT persons, and the death penalty remains a lawful sanction for certain crimes.[65] Over time, however, repeated conversations and increased domestic actor mobilization could facilitate change. UPR Info's research is also replete with examples of effective multi-actor dialogue stimulated by the mechanism. In Botswana, recommendations to hold debates on the death penalty, though not implemented by its government, led to civil society events and a subsequent government commitment to commission a study on the issue.[66] Côte d'Ivoire, too, found discussions on human rights between its government, NHRI, civil society and parliamentarians to be invigorated following its third UPR in 2019.[67] This led to the creation of an action plan for implementing UPR recommendations. Other notable cases in this regard include strengthened alliances between CSOs in India,[68] the use of UPR recommendations to inform advocacy in Canada,[69] and the adoption of an action plan following the 'Multi-Stakeholder Dialogue on UPR Implementation' in Sierra Leone.[70]

It is also important to note that the discursive avenues created by the UPR may not have been available in its absence. The principle of universality

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62 UPR Info, 'The Butterfly Effect: Spreading Good Practices of UPR Implementation' (2016) 29 https://upr-info.org/sites/default/files/documents/2016-11/2016_the_butterfly_effect.pdf accessed 1 August 2025.

63 Damian Etone, *The Human Rights Council: The Impact of the Universal Periodic Review in Africa* (Routledge 2021) 101–105.

64 UPR Info, 'The Civil Society Compendium: A Comprehensive Guide for Civil Society Organisations Engaging in the Universal Periodic Review' (2017) 36 https://upr-info.org/sites/default/files/documents/2017-04/upr_info_cso_compendium_en.pdf accessed 1 August 2025.

65 See Kenya's third cycle UPR working group report: HRC, 'Report of the Working Group on the Universal Periodic Review: Kenya' (2020) UN Doc A/HRC/44/9.

66 UPR Info, 'Butterfly Effect' (n 62) 5.

67 UPR Info, 'Beyond Reporting: Transformational Changes on the Ground' (2022) 26 https://www.upr-info.org/en/news/upr-transformational-changes-ground accessed 1 August 2025.

68 ibid 31.

69 ibid 23.

70 UPR Info, 'Civil Society Compendium' (n 64) 35.

means that all states are subject to the process, and that all human rights issues are up for discussion. Reflecting again on the example of Kenya, the issues of sexual orientation and the death penalty, discussed at the UPR meetings, are particularly divisive. Given this, the domestic actors making up the Kenyan Stakeholder Coalition may have found it difficult to engage individually with the Government without the avenues provided through the UPR. Indeed, the fact that governments appear more inclined to engage with the UPR when compared with other monitoring mechanisms is most reliably demonstrated by the fact that *all* member states have participated in the process. Greater receptivity to the mechanism has also been noted in existing research on the UPRs of other sub-Saharan African states,[71] Australia,[72] China[73] and Egypt,[74] and in relation to specific human rights issues such as minorities and Indigenous peoples.[75] Reflecting on this evidence, UPR Info claim that: '[w]hile it may be true that governments are not willing to engage with civil society on human rights that they are actively undermining, the UPR has, like no other UN human rights mechanism, called upon states to engage in dialogue with civil society'.[76]

Consequently, even if domestic actors were to find other means to facilitate a dialogue on human rights, it is possible that these engagements would not be as fruitful as those offered through the UPR.

Leverage for domestic actors

Turning to the second way that the UPR empowers actors, it is apparent that the mechanism provides domestic actors with a wealth of information that can be used to help them legitimize their claims. By providing information and recommendations on a state's human rights situation, the UPR fosters an enhanced awareness of the issues faced by the state and best practices for how these may be overcome. Notable sources of information include that

[71] See, for instance, Etone's other case studies on Nigeria, South Africa and the Gambia Etone, *UPR in Africa* (n 63) 155.

[72] Fiona McGaughey, 'The Role and Influence of Non-Governmental Organisations in the Universal Periodic Review – International Context and Australian Case Study' (2017) 17 *Human Rights Law Review* 421.

[73] Junxiang Mao and Xi Sheng, 'Strength of Review and Scale of Response: A Quantitative Analysis of Human Rights Council Universal Periodic Review on China' (2016) 23 *Buffalo Human Rights Law Review* 1.

[74] Laura K Landolt, 'Externalizing Human Rights: From Commission to Council, the Universal Periodic Review and Egypt' (2013) 14 *Human Rights Review* 107.

[75] Noelle Higgins, 'Advancing the Rights of Minorities and Indigenous Peoples: Getting UN Attention via the Universal Periodic Review' (2014) 32 *Netherlands Quarterly of Human Rights* 379.

[76] UPR Info, 'Butterfly Effect' (n 62) 26.

contained in the documentation provided in advance of a state's review, in the national report, stakeholder summary and the UN compilation; the observations and recommendations made by states in the working group; the state's responses and reasoning given to recommendations; and mid-term reports by the state and civil society on implementation progress. The literature on domestic mobilization suggests that the availability of this material can contribute to a state's compliance with its human rights obligations. Simmons and Creamer explain that 'transparency and human rights appear to be mutually reinforcing'.[77] Greater transparency may 'encourage more organization and mobilization by civil society groups, who use this information to put pressure on the Government to change its human rights practices'.[78] Dai equally considers that international institutions that provide information can 'facilitate compliance with international agreements'.[79]

There is good reason to expect similar outcomes from the UPR. Foremost, the sources noted previously are all easily accessible through the public database of UPR documentation held on the OHCHR's website. Databases of recommendations have proliferated too, making it easier than ever to identify themes, find statistics and observe state progress.[80] Of course, such material exists (and has existed for decades) as international and regional human rights bodies have long been monitoring states. However, the UPR is unique for two reasons. First, its universal coverage and regularity means it has the potential to shed light on all human rights issues in all UN member states and reveal progress or regression over time. This makes the mechanism a particularly useful tool, particularly for those actors seeking to advance rights in states that have sporadic engagement with, for instance, the UN treaty bodies. Second, UPR recommendations have peculiar qualities distinct from those made by other, similar mechanisms, which potentially make them especially desirable for domestic actors to leverage. Primarily, the fact that states must respond to and indicate their 'support' for recommendations will send a signal to domestic audiences that relevant action will be taken. As Cowell explains, 'by accepting particular recommendations states are demonstrating on the international plane that they are willing to alter their

[77] Cosette Creamer and Beth A Simmons, 'Transparency at Home: How Well Do Governments Share Human Rights Information with Citizens?' in Andrea Bianchi and Anne Peters (eds), *Transparency in International Law* (Cambridge University Press 2010) 244.

[78] ibid.

[79] Xinyuan Dai, *International Institutions and National Policies* (Cambridge University Press 2007) 35.

[80] See, for example, Huridocs, 'Human Rights Research Databases' https://huridocs.org/resource-library/human-rights-research-databases accessed 1 August 2025.

human rights practices and laws'.[81] Holding a government to account for failing to action a supported recommendation may be more persuasive compared with, say, a concluding observation of a treaty body to which the state may be silent or respond to more ambiguously. Additionally, because recommendations are made *by* states, the act of making a recommendation may also send a signal to observers about what that government considers to be appropriate practice. If a state were to act incompatibly with a recommendation it had made, domestic actors may highlight these double standards in order to retaliate. A notable example is the UK Supreme Court's use of a recommendation made by the UK to Rwanda in 2021 to '[c]onduct transparent, credible and independent investigations into allegations of extrajudicial killings, deaths in custody, enforced disappearances and torture, and bring perpetrators to justice'.[82] This recommendation, among other evidence, was raised by counsel for the applicants to argue that their removal to Rwanda would risk refoulment. Recommendations made *by* and *to* a state may therefore be used by domestic actors as leverage.

Existing research suggests that domestic actors are, indeed, referring to the UPR as a means to justify decisions and hold governments to account. Carraro's interviews with officials engaged in the process reveal the UPR to be effective in generating public pressure and enabling government accountability.[83] The role of the media has also been highlighted by Sarah Joseph, who revealed how the UPR had attracted global attention from journalists (albeit to different degrees, depending on the state).[84] It has been suggested that states' UPRs are more widely reported on in the media compared with treaty body reviews.[85] In the UK, this has certainly been reflected in the media coverage of its third and fourth UPRs.[86]

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[81] Frederick Cowell, 'Understanding the Legal Status of Universal Periodic Review Recommendations' (2018) 7 *Cambridge International Law Journal* 164, 166.

[82] HRC, 'Report of the Working Group on the Universal Periodic Review: Rwanda' (2021) UN Doc A/HRC/47/14, para 135.33.

[83] Valentina Carraro, 'Promoting Compliance with Human Rights: The Performance of the United Nations' Universal Periodic Review and Treaty Bodies' (2019) 63 *International Studies Quarterly* 1079.

[84] Sarah Joseph, 'Global Media Coverage of the Universal Periodic Review Process' in Hilary Charlesworth and Emma Larking (eds), *Human Rights and the Universal Periodic Review: Rituals and Ritualism* (Cambridge University Press 2014).

[85] Olivier de Frouville, 'Building a Universal System for the Protection of Human Rights' in William Schabas and Mahmoud Bassiouni (eds), *New Challenges for the UN Human Rights Machinery: What Future for the UN Treaty Body System and the Human Rights Council Procedures?* (Intersentia Ltd 2011) 251.

[86] Jamie Doward, 'Britain Faces Rebuke over Refusal to Back More Than 100 UN Human Rights Targets' (*The Guardian*, 16 September 2017) https://www.theguardian.com/law/2017/sep/16/britain-un-human-rights-brexit accessed 1 August 2025; Robert Booth, 'UK Must Act over Poverty, Housing and Equal Rights, Says UN Body' (*The Guardian,*

Engagement with the UPR is also not limited to private actors. Increasingly, states' executives, legislatures and judiciaries are turning to the UPR to inform their respective functions. The UPR is being used by governments to help inform human rights policies, notably 'human rights action plans'. A survey of these plans suggests that the recent surge in their adoption is actually the result of the UPR, and that many utilize its recommendations as the basis of these plans' indicators or outcomes.[87] This was the case in Scotland, where 'outstanding recommendations from international human rights bodies' (such as the UPR) were used as the basis for 'Scotland's National Action Plan for Human Rights' (SNAP). SNAP was facilitated through discussions with domestic and international NGOs and has enabled improvements in human rights through, for instance, the integration of human rights into the policy and practices of health and social care bodies.[88] New Zealand adopted a similar approach following its second UPR.[89] This phenomena aligns with Simmons's work on treaties, which shows how ratification by a state (government) can 'rearrange a country's priorities'.[90] Accepting recommendations may, too, provide a neat way for a government to establish and justify a human rights action plan on its terms. Parliaments also draw on the UPR. A study of 56 countries by the OHCHR, reported in 2018, reveals how parliaments are increasingly using the state's UPR as a means to interrogate human rights in the state.[91] Delegations at side events of the HRC in 2018 and 2019 also shared their experience of emerging parliamentary practices across the globe.[92] Finally, there is emerging evidence showing how judiciaries engage with the UPR,

15 November 2022) https://www.theguardian.com/politics/2022/nov/15/uk-must-act-over-its-housing-food-security-and-equal-rights-says-un-body accessed 1 August 2025.

87 Sébastien Lorion, 'National Human Rights Action Plans: An Inventory' (2022) https://www.humanrights.dk/publications/national-human-rights-action-plans-inventory accessed 1 August 2025.

88 See the independent evaluation of SNAP at: Jo Ferrie, 'Evaluation of Scotland's National Action Plan for Human Rights (SNAP) 2013–2017' (2019) http://www.snaprights.info/accountability accessed 1 August 2025.

89 New Zealand Human Rights Commission, 'NZ National Plan of Action' https://npa.hrc.co.nz/ accessed 1 August 2025.

90 Simmons, *Mobilising for Human Rights* (n 29) 127.

91 HRC, 'Report on Parliaments and the UPR' (n 38).

92 Inter-Parliamentary Union, 'Parliamentary Engagement on HUMAN RIGHTS: Identifying Good Practices and New Opportunities for Action' (2019) https://www.ohchr.org/sites/default/files/Documents/HRBodies/UPR/Parliaments/Good_practices_recommendations.pdf accessed 1 August 2025; OHCHR, 'Summary Report: Increasing Parliaments' Engagement with Human Rights' (2018) https://www.ohchr.org/sites/default/files/Documents/HRBodies/UPR/Parliaments/SideEventParliamentsSummary.docx accessed 1 August 2025.

including its recommendations,[93] as they do with the decisions of other UN mechanisms.[94]

This evidence suggests that the UPR can be and is used by both state and non-state domestic actors to legitimize their respective claims and decisions. Admittedly, it is less clear whether domestic engagement with the UPR *specifically* can (and has) brought about change in terms of the human rights situation on the ground. The contribution of the UPR, in each of the instances noted, might be minimal; that is, the ends sought by these actors may or would have occurred even had they not deployed the UPR. This is reminiscent of Posner's remarks noted earlier.[95] Yet, it would perhaps miss the point: the very fact that actors choose to deploy the UPR is, in itself, evidence of the mechanism's impact. Furthermore, it tells us there is a belief that using the UPR as leverage would be beneficial in achieving the desired end. Nevertheless, to try and connect the dots between mobilization and change on the ground is desirable. As Jana Von Stein explains: 'it is worthwhile to start looking at the causal impact of international law through a different lens, which could, for instance, involve studying changes in practice or implementation'.[96] In practice, this is extremely difficult, given the myriad of factors at play. Yet, studying causation – examining whether use of the UPR by domestic actors leads to changes that would not have otherwise occurred – is an important endeavour if we are to fully understand the nature and extent of the mechanism's impact. A close look at the engagement of the three branches of state in subsequent chapters offers an opportunity to do just this.

[93] See contributions at two side HRC side events: UPR Info, 'Side Event During the 57th Session of the UN Human Rights Council: Enhancing Implementation of UPR Recommendations through Judicial Engagement' (2024) https://upr-info.org/en/news/implementation-upr-judicial-engagement accessed 1 August 2025; International Bar Association, 'Tips for Enhancing Judicial Engagement with the United Nations Human Rights Council Universal Periodic Review' (2024) https://www.ibanet.org/document?id=Tips-for-judicial-review-report accessed 1 August 2025.

[94] Jasper Krommendijk, 'Domestic Gatekeepers or International Enforcers? National Courts Engagement with Decisions of International Human Rights Courts and Treaty Bodies' in Rachel Murray and Debra Long (eds), *Research Handbook on Implementation of Human Rights in Practice* (Edward Elgar Publishing 2022); Machiko Kanetake, 'UN Human Rights Treaty Monitoring Bodies Before Domestic Courts' (2018) 67 *International and Comparative Law Quarterly* 201; Machiko Kanetake and André Nollkaemper, 'The Application of Informal International Instruments Before Domestic Courts' (2014) 46 *George Washington International Law Review* 765.

[95] Eric Posner, *The Twilight of Human Rights* (Oxford University Press 2014).

[96] Von Stein (n 28) 496.

Conclusion

This chapter has sought to advance the second contribution of this book by emphasizing the importance of adopting an 'internal' perspective to understand the UPR's impact. As such, this is a departure from the previous scholarship that has tended to focus on inter-state, 'external' matters, foremost acculturation. While acculturation is likely to play an important role, it fails to account for international human rights' influence on states' domestic political dynamics. This is a potential problem when applied to the UPR, as it is apparent that the mechanism provides domestic actors with useful tools and opportunities to advance their respective human rights claims. The UPR, it appears, has great potential as a catalyst for domestic mobilization. This is a necessarily conditional and cautiously optimistic claim about the UPR's potential. The mere existence and operation of the UPR, as important as it is, may not be enough to contribute to the protection of human rights. Rather, domestic actors need to be able and inclined to engage with the opportunities and leverage it provides them. Moreover, that engagement would need to be for the purpose of improving the protection of human rights in the state. What this means is, that to appreciate the UPR's influence in each state, we should look *inward* to see whether domestic actors do indeed engage with the opportunities presented by the mechanism. Equally, if they do not, or there is no discernible effect of that engagement, interrogating why this is the case will help further clarify the potential and limitations of the UPR. The wider literature on domestic mobilization does provide some likely answers. Hillebrecht, on the ECtHR, provides that the implementation of judgments requires, inter alia, 'building domestic institutions' capacity for pushing through the implementation of reforms, and educating judges, legislators, and civil society members about the role of the ECtHR and its jurisprudence'.[97] Similarly, on courts' and human rights treaties, Simmons highlights that litigants (and indeed judges) necessarily need the 'legal literacy' to engage with international human rights.[98] In the same way, it is foreseeable that engagement with the UPR by domestic actors would be affected by their capacity, knowledge and/or legal literacy. There is nevertheless scope to confirm this, and to explore other relevant factors that hinder the UPR's influence on domestic mobilization. It is plausible, for instance, that different factors affect each actor; certainly, what may impede the efforts of a judiciary to deploy the UPR may differ from that which affects NGOs. To this end,

[97] Courtney Hillebrecht, 'Implementing International Human Rights Law at Home: Domestic Politics and the European Court of Human Rights' (2012) 13 *Human Rights Review* 279, 297.

[98] Simmons, *Mobilising for Human Rights* (n 29) 132.

subsequent chapters turn again to the case of the UK, specifically to three constitutional actors – the government, parliament and the judiciary – and their engagement with the UPR. Each of these chapters addresses three central questions: first, how can the relevant actor engage with the UPR? Second, to what extent has that actor actually done this? And finally, what factors may have influenced that actor's engagement? We can look first at the executive.

5

The Universal Periodic Review and the Executive

The implementation of international human rights in states is in significant part dependent on the state's executive. Such is a consequence of the position and role of the executive branch in the constitutional scheme. Alice Donald and Philip Leach, on the implementation of European Court of Human Rights (ECtHR) judgments, explain that '[i]t is the executive that represents the state before the Court and the Committee of Ministers and that possesses both the information and law- and policy-making apparatus to formulate the state's response to adverse judgments'.[1] Certainly, the same can be said of the executive and the UPR as this branch will be responsible for preparing their state's national report, consulting with civil society, representing the state at the review and responding to recommendations. Afterwards, the executive will continue to be the driver of implementation. If the UPR is to have a positive impact in the state, then, this is in large part contingent on the engagement with the mechanism of the executive. Such engagement may be in the way explored in the previous chapter, namely by using the UPR as an opportunity for dialogue with other state and non-state actors, or by using it as leverage to justify or inform decision-making. Of course, other actors in the state are also important; they, too, are empowered by the UPR in the same ways and can use these opportunities to their own ends, including holding the executive to account. But it is central that there is a receptive, willing and capable executive. This is certainly the case in the UK. The UK Government is the executive branch of the state and by virtue of its prerogative power it is the branch largely responsible for the UK's engagements on the international plane, including that with the UPR, and it has primary responsibility for the development of policy and

[1] Alice Donald and Philip Leach, *Parliaments and the European Court of Human Rights* (Oxford University Press 2016) 92.

drafting of legislation. Arguably, it has the most important role to play in ensuring that the UK's international human rights obligations are translated effectively into domestic law and practice. By turning the spotlight onto the UK Government, this chapter begins to illuminate the extent that constitutional actors – the executive, legislature and judiciary – can and do engage with the UPR. First, this chapter elaborates the Government's role in the UPR process and explains why we might expect it to engage with the mechanism to inform its work. The second and third sections of this chapter then consider how, in fact, the Government has engaged with the UPR both as an avenue for inter- and intra-institutional dialogue and to inform government policy. Finally, this chapter examines plausible factors that contribute to and hinder engagement with the UPR in these ways.

The executive's role vis-à-vis the UPR

State executives are arguably the most important actors for facilitating the UPR's impact because they typically perform two central constitutional, human rights-related functions: (1) the representation of the state on the international plane, and (2) the development, implementation and administration of human rights policy.

On the first point, it is typically the executive branch that represents the state at international forums and coordinates its reporting and responses to international human rights mechanisms. We see from states' UPR national and working group reports that several different executive actors are involved, notably justice and foreign affairs ministries, and the permanent missions in Geneva. Presentations by states at their working group and at the adoption of their UPR at the Human Rights Council (HRC) plenary might be given by representatives of any of these agencies. In the case of the UK, foreign affairs is a prerogative of the Crown, exercised by government ministers.[2] When it comes to the international human rights mechanisms, it has long been the practice of governments to afford responsibility for reporting and representation to different departments (see Table 5.1), though the Foreign Commonwealth and Development Office (FCDO), which includes the UK Permanent Mission in Geneva, plays a key role in sharing information with the UN.

As can be seen, it is the Ministry of Justice (MoJ) that leads on the UPR, specifically its 'international, rights and constitutional policy' division. Hence, for all four of the UK's reviews to date, the national reports have been drafted by that department, and delegations at the working group have

[2] On the operation of the prerogative, see House of Commons Library, *The Royal Prerogative* (Gail Bartlett and Michael Everett eds, Briefing Paper 03681, 2017).

Table 5.1: Departmental responsibility for coordinating responses to the UN human rights mechanisms

Mechanism	Coordinating department
Human Rights Committee	Ministry of Justice
Committee on Economic, Social and Cultural Rights	Ministry of Justice
Committee Against Torture	Ministry of Justice
Committee on the Elimination of Racial Discrimination	Ministry of Housing, Communities and Local Government
Committee on the Elimination of Discrimination against Women	Women and Equalities Unit (formerly Government Equalities Office) (Cabinet Office)
Committee on the Rights of the Child	Department for Education
Committee on the Rights of Persons with Disabilities	Disability Unit (Cabinet Office)
Universal Periodic Review	Ministry of Justice

been headed by justice ministers alongside civil servants from across a range of departments and agencies.

On the second point, the executive branch also initiates, develops and implements policy. The implications of this for the implementation of international human rights is self-evident. Simply, if the executive does not act to translate recommendations or decisions of international bodies domestically, then this will (or may, depending on the capacity and power of the other branches of state) render them meaningless. JAG Griffith described the UK Government as the 'driving force of policies and of political behaviour at the national and international level'.[3] When it comes to legislation, too, most bills considered and duly passed by Parliament originated in government, not in Parliament. Parliament's role (albeit still important in the context of the UPR, as seen in the next chapter) is seen as one of only *influencing* policy through mechanisms of scrutiny and giving deliberation and assent to the proposals that culminate in the passing of Acts of Parliament.[4] In addition to being the relevant department for coordinating

[3] JAG Griffith, 'The Common Law and the Political Constitution' (2001) 117 *Law Quarterly Review* 42, 48–60.

[4] Philip Norton draws a distinction between policy-making legislatures, legislatures with little or no policy affect, and policy-influencing legislatures (with the UK Parliament, and most other western legislatures, falling under the latter category), see Philip Norton, *Parliament in British Politics* (Red Globe Press 2005).

reporting for the UPR, the MoJ is also the department primarily responsible for domestic human rights policy. The department also plays a key role in advising on, and coordinating, human rights issues across government. This reflects Section 6 of the Human Rights Act 1998 (HRA 1998) which makes it unlawful for public bodies, including government departments, to act in a way which is incompatible with the European Convention on Human Rights (ECHR); and Section 19 which requires ministers to declare whether government bills are compliant with the Convention.

These functions and powers put the UK Government in a unique position for affecting change following reviews by international human rights mechanisms. Notwithstanding its importance, it is curious, as Aileen Kavanagh has noted, that the executive branch has 'long been obscured' in scholarship on human rights, in part because we may perceive the executive as 'evil' and the 'most dangerous' branch.[5] It is therefore unsurprising that, when looking for solutions to best protect human rights, we turn to the legislature or the judiciary. 'Hardly anyone', Kavanagh remarks, 'scoops to defend the executive as a potentially "pro-constitutional" actor'.[6] While true, it is unwise to neglect the role and capacity of the Government to promote and protect human rights in the UK. It is important to understand how, when and why the Government engages with the UPR in the course of its domestic functions if we are to fully appreciate the mechanism's potential and limitations.

Given the tendency to view the executive as being rights-adverse, it might be asked why the UK Government would want to engage with the UPR at all. If, like in the UK, a government has significant control over the law- and policy-making process, what does it have to gain from turning to an international human rights mechanism? There are several ways in which engaging with the opportunities provided by the UPR may be in the interests of governments. First, using these processes and international human rights law to inform the government agenda can be attractive to the electorate. In the UK, while public perceptions of human rights have not always been positive, polls continue to show that voters of all parties feel that the promotion and protection of human rights are important.[7] Second, and relatedly, governments will also be conscious of the views of other states when weighing up policy options. Alexander Hamilton in *The Federalist Papers* provides an appropriate insight into this:

[5] Aileen Kavanagh, *The Collaborative Constitution* (Cambridge University Press 2024) 126.
[6] ibid 127.
[7] See polls commissioned by Amnesty International (2022) https://savanta.com/eu/knowledge-centre/poll/amnesty-international-uk-human-rights-act/ and Ipsos (2018) https://www.ipsos.com/en-uk/britons-split-whether-human-rights-abuse-uk-problem accessed 1 August 2025.

> An attention to the judgment of other nations is important to every government for two reasons: the one is, that, independently of the merits of any particular plan or measure, it is desirable, on various accounts, that it should appear to other nations as the offspring of a wise and honorable policy; the second is, that in doubtful cases, particularly where the national councils may be warped by some strong passion or momentary interest, the presumed or known opinion of the impartial world may be the best guide that can be followed.[8]

A government might give due attention to its peers' views because it is mindful of its international reputation. We might expect this to be particularly important in the context of the UPR because a government is both reviewed and is a reviewee of its peers. If a government wishes for other states to heed its recommendations and to 'set an example' on the international plane, then it is important that it, too, is seen to take its own recommendations seriously. Research has already shown how these factors can influence the UK Government to implement decisions made by the international human rights courts despite its initial reluctance.[9] Comments by one former government minister, Baroness Warsi, suggests the same considerations apply in relation to the UPR:

> The success of UPR is a priority for the UK; it is often the first time that a state has had the opportunity to carry out an open, self-critical review of its human rights commitments. The majority of states have engaged constructively, and the UPR looks likely to help facilitate wider acceptance of international human rights standards. It is therefore a crucial tool for implementing our human rights priorities. The UK works hard to ensure that other countries approach the UPR process in a transparent and constructive manner, and *it is therefore important to us that we are able to demonstrate having taken the process seriously ourselves*.[10]

Third, international human rights law and UPR recommendations may be useful leverage for a government wishing to justify policies. Though UPR recommendations are legally and conceptually distinct from other international instruments like treaties, they are similar in that they operate as international commitments initiated by the state government.

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[8] Alexander Hamilton or James Madison, 'The Federalist Papers: No. 63' (2008) https://avalon.law.yale.edu/18th_century/fed63.asp accessed 1 August 2025.

[9] See, on the ECtHR, Courtney Hillebrecht, 'Implementing International Human Rights Law at Home: Domestic Politics and the European Court of Human Rights' (2012) 13 *Human Rights Review* 279.

[10] Baroness Warsi, HL Deb 21 November 2013, vol 749, col 1111–1112. Emphasis added.

A government that accepts a recommendation that aligns with priorities may later deploy that recommendation in domestic discourse to legitimize its position.

There are, then, various potential mechanisms which may lead the Government to engage with the UPR. The following sections aim to identify if, how and when this has occurred, and query the potential factors that contribute to or hinder this engagement. As is the case for the other chapters in this book, the evidence and analysis draws primarily from publicly available documentary sources. This does provide a particular challenge when researching large, public institutions such as governments, as not all decisions (nor their rationale) will be documented. It is likely, then, that what is presented here tells only part of the story and, in some places, conclusions are inferred from what is available. Nevertheless, the following discussion provides a tentative account of the UPR's potential to influence a state through the executive.

Government and intra- and inter-actor dialogue

One of the notable ways that the UPR can empower domestic actors, as we saw in the previous chapter, is to provide a stimulus for dialogue and collaboration. There are several instances in the course of a UPR cycle where we can see the UK Government entered into intra- and inter-actor dialogues. On the former, the UPR has prompted discussions *within* the Government. National reports submitted by the UK are said to be drafted in consultation with relevant departments, and the UK's practice has been to delay their responses to recommendations in order to seek information from the relevant departments responsible for the relevant policy areas.[11] An insightful report by the Bingham Centre for the Rule of Law also reveals that the MoJ holds an '"informal ministerial coordination mechanism" … to ensure that every recommendation "has a home"'.[12] A further meeting takes place in advance of mid-term reporting to 'check on progress and to identify what action is needed to implement' recommendations.[13] A document presented by the Government to the Joint Committee on Human Rights (JCHR) in June 2023 corroborates the Bingham Centre report, and further reveals that once the UK's national report is drafted, it is presented to and cleared

[11] See Chapter 3, 'Preparation for the UPR' and 'Responding to the UPR'.

[12] Bingham Centre for the Rule of Law, 'The Implementation of Human Rights Recommendations in the UK' (2023) 4 https://binghamcentre.biicl.org/projects/national-implementation-of-human-rights-global-survey-of-state-implementation-systems-and-processes accessed 1 August 2025.

[13] ibid.

by departments and the Cabinet.[14] The MoJ is also said to provide advice to departments on the UPR,[15] as it does on other human rights matters.[16]

We also have evidence of how the UPR has influenced *inter*-actor dialogues between the Government and other domestic actors. Many of these were noted in Chapter 3 when looking at the UK (state) approach to the UPR, but a more thorough discussion is necessary here. First, the UPR has prompted interactions between the Government *and civil society*. As we saw in Chapter 3, during different stages of the UPR but notably at the pre-review, the Government has used engagement events to seek the views of civil society. Second, the UPR has stimulated Government engagement *with the UK's NHRIs*. This is known to occur on two occasions throughout the UPR cycle: prior to the drafting of the national report and then in advance of mid-term reporting.[17] There may also be more frequent contact through the Equality and Human Rights Commission's (EHRC's) Treaty Monitoring Working Group (TMWG). The aim of the group is to provide a confidential forum for discussion between several state actors on the implementation of the UK's international human rights commitments (including those under the UPR). This confidentiality, the EHRC suggests, enables the Government 'to be comfortable in having free and frank conversations about implementation'.[18] Members of the group include the EHRC, the JCHR, and 'senior officials from several government departments'.[19] The latter usually comprises of those responsible for the 'National Preventative Mechanism', and senior officials from government departments that have a 'human rights treaty monitoring lead'.[20]

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[14] Ministry of Justice, 'Process for International Obligations: Adverse Judgments from the ECtHR, UN Treaty Reporting and UPR' (2024) https://committees.parliament.uk/publications/41329/documents/203002/default/ accessed 1 August 2025.

[15] ibid.

[16] Cabinet Office, 'Guide to Making Legislation' (2025) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1048567/guide-to-making-legislation-2022.pdf accessed 1 August 2025.

[17] See Chapter 3, 'Preparation for the UPR' and 'Implementing the outcome'.

[18] UPR Info, 'The Butterfly Effect: Spreading Good Practices of UPR Implementation' (2016) 36 https://upr-info.org/sites/default/files/documents/2016-11/2016_the_butterfly_effect.pdf accessed 1 August 2025.

[19] Council of Europe Steering Committee for Human Rights, 'Overview Document on the Protection and Promotion of the Civil-Society Space, Based on the Compilation of Measures and Practices in Place in the Council of Europe Member States and Compilation of Measures and Practices in Place in the Council of Europe Member States' (2018) https://rm.coe.int/steering-committee-for-human-rights-cddh-drafting-group-on-civil-socie/16808d9923 accessed 1 August 2025.

[20] Equality and Human Rights Commission, 'Response of the Equality and Human Rights Commission to the Consultation: UPR: Note Verbale and Questionnaire on the

Representatives from the other two UK national human rights institutions (NHRIs) also participate in one quarterly meeting each year.[21] Owing to the private nature of these meetings, there is limited information available on the UPR-related outcomes from the TMWG, though one document suggests that it has 'enabled co-operation between the Commission and the JCHR' on work relating to three of the UN's core human rights treaties.[22] Third, the Government has more recently begun to discuss the UPR *with Parliament*. This has mostly been limited to sharing of the UK's national reports, though more recently the UPR has emerged as an issue for scrutiny for the JCHR. Primarily, in an evidence session in 2024, the Committee for the first time assessed the Government's approach to the UPR, which led to broader debates about how it coordinates responses to the UN human rights mechanisms.[23] Parliaments own engagement with the UPR is discussed in the next chapter. Finally, the Government and the UK's *three devolved governments* have been brought together by the UPR at several points in the review cycle. This occurs during the pre-review stage, at which the UK Government consults with its devolved counterparts; at the working group, where representatives of the devolved governments attend the UK's working group in Geneva as part of the state delegation; and in the post-review phase when the devolved governments input on the UK's response to its recommendations. It may be easy to dismiss these interactions as meaningless 'talk', particularly as we cannot easily identify their precise consequences for human rights 'on the ground'. But we know that institutional dialogues can provide an important constitutional mechanism of checks and balances. Specifically, dialogue allows human rights matters to be addressed in a collaborative fashion, drawing on the respective strengths, weaknesses and perspectives of institutions to realize solutions.[24] The breadth of human rights issues addressed in the UPR provides a unique and potentially valuable inroad for dialogue between the Government and various actors.

Role of Parliaments' (2018) https://www.equalityhumanrights.com/sites/default/files/consultation-response-ohchr-upr-role-of-parliaments-12-january-2018.pdf accessed 1 August 2025.

21 UPR Info, 'Butterfly Effect' (n 18) 23.

22 Equality and Human Rights Commission, 'Response to Consultation on Parliaments' (n 20).

23 Joint Committee on Human Rights, 'Uncorrected Oral Evidence: The UK's Engagement with Its International Human Rights Obligations' (2024) https://committees.parliament.uk/oralevidence/14717/html/ accessed 1 August 2025. Also see in this chapter, 'The efficacy of internal coordination'.

24 Alison Young, *Democratic Dialogue and the Constitution* (Oxford University Press 2017).

The UPR to inform government policy

Another way that we might expect the Government to engage with the UPR is in the process of policy-making. More specifically, UPR recommendations, as the (usually) informed views of states, would provide very reasonable options to the Government as to how to address a given issue. It is not unforeseeable that a government would do this, not least because the UPR might legitimize or provide a prop for a policy or decision. For example, reflecting on the previous chapter, we can recall the many number of states that use UPR recommendations as the basis for human rights action plans.[25] To identify whether the UPR has influenced or shaped government policy, particular attention was paid to ministerial statements in Parliament and policy documents such as white papers to see if and when the UPR had been referred to as a reason for a given position.

In relation to *domestic* policy, this exercise found no such references. There have been some mentions of the UK's UPR by government ministers in parliamentary debates and in responses to questions submitted to them.[26] But these are general mentions of the UPR (for instance, affirmations of the Government's commitment to the process) rather than indications that the mechanism or its recommendations were relevant to a particular policy decision. The UK's reports to the UPR are, equally, unhelpful in this respect. Though they are, naturally, replete with evidence of the Government's actions taken on human rights, none of these are explicitly said to have been taken wholly or partly *as a result* of UPR recommendations. That is, the reports may evidence *compliance* with a recommendation, but not that the recommendation led to the relevant action. It was noted, also, that several administrations have in recent history established strategies or action plans addressing issues that engage certain rights issues, but these rarely point to international human rights as the incentive for such plans. This can be contrast with the various countries, including Scotland, that have used the outcome of their reviews at the UN as the basis for their human rights strategies. Once again, the lack of evidence is at least in part a result of the methods adopted for this study; we cannot expect that on *every* occasion the UPR has influenced a decision in government it will have been captured.

[25] See Chapter 4, 'Leverage for domestic actors', and Sébastien Lorion, 'National Human Rights Action Plans: An Inventory' (2022) https://www.humanrights.dk/publications/national-human-rights-action-plans-inventory accessed 1 August 2025.

[26] On seven occasions: Baroness Warsi, HL Deb 21 November 2013, vol 749, col 1111; Simon Hughes MP, 10 December 2014, UID 217523; Dominic Raab MP, 24 February 2016, UID 27335; Oliver Heald MP, 21 February 2017, UID 63905; Oliver Heald MP, 6 March 2017, UID 65541; Edward Argar MP, 5 November 2018, UID 185684; Edward Argar MP, 13 February 2019, vol 654, col 389WH.

It is plausible, too, that the UPR led the Government to not proceed with a decision or policy that it had initially planned to pursue. If the UPR has had such a prophylactic effect, it is unlikely it would have been documented. But it is not unreasonable to expect some evidence of influence to have been recorded. For instance, the impact of decisions of the Committee on the Rights of the Child can be readily found in this way.[27] All this is to say, if the UPR had affected the Government's domestic policy, we might expect that there would be traces of this documented. Further research would be desirable to identify more precisely if and when the UPR has been influential in this way.[28]

Turning to *foreign* policy, however, we do see more documented evidence of how the UPR has shaped the Government's approach to informing human rights in other countries. This can be seen particularly in the early days of the UPR when the Government's Foreign and Commonwealth Office (now the Foreign, Commonwealth and Development Office, or FCDO) recognized the potential for the UPR to inform its work. In response to a report in 2009 by Parliament's Foreign Affairs Committee on the UK's relationship with North Korea, the Government indicated the importance of the UPR in helping it promote human rights abroad:

> We also hope that the UN Human Rights Council Universal Periodic Review process, which will review North Korea's human rights record in December 2009, will be seen by North Korea as a neutral forum for discussion, because it is universal and it would be difficult to construe it as a specific attack on North Korea … The Government agrees with the Committee that the Universal Periodic Review (UPR) process provides a good opportunity to engage with North Korea. *We hope to take full advantage of the neutral ground which the UPR process offers*.[29]

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[27] Department for Children, Schools and Families, 'The Children's Plan: Building Brighter Futures' (2007) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/325111/2007-childrens-plan.pdf accessed 1 August 2025; Home Office, 'Interim Guidance for Independent Child Trafficking Guardians' (2024) https://www.gov.uk/government/publications/child-trafficking-advocates-early-adopter-sites/interim-guidance-for-independent-child-trafficking-guardians-accessible-version accessed 1 August 2025; Department for Education, 'Support and Aspiration: A New Approach to Special Educational Needs and Disability' (2011) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/198141/Support_and_Aspiration_Green-Paper-SEN.pdf accessed 1 August 2025.

[28] The most appropriate approach may be interviews as seen in previous research on the UN treaty bodies, see Jasper Krommendijk, 'The Domestic Effectiveness of International Human Rights Monitoring in Established Democracies. The Case of the UN Human Rights Treaty Bodies' (2015) 10 *Review of International Organizations* 489.

[29] Foreign Affairs Committee, 'Global Security: Japan and Korea' (2007–08, Cm 7534) 14.

The creation of the UPR was, it seems, understood as an important opportunity for the Government to advance its foreign policy. Furthermore, in each of the Foreign Office's annual 'Human Rights and Democracy' reports, published since 2008, there is frequent reference to the UPRs of other countries and how these have influenced the Government's work.[30] By way of example, the most recent report, published in 2022, refers to the reviews of Haiti, South Sudan, Turkmenistan and Uzbekistan, and the measures the Government has taken to support these states' engagement with the UPR.[31] The same report reveals that the Government has participated in every state's UPR since 2008, and provided 'technical assistance to Commonwealth member states to help the sustainable implementation of recommendations from the Universal Periodic Review process'.[32] The Government has also provided funds, through various Foreign Office projects, to promote state and civil society engagement with the UPR and implementation of recommendations.[33] In Parliament, all but seven[34] of the 183 references to the UPR by government ministers concern the reviews of other countries. Most of these are prompted by questions from members about what the Government is doing to address human rights issues in these countries. A statement by a minister in a debate on Sri Lanka in 2013 is emblematic of these kinds of responses:

> The UK has been candid in private and public about our concerns. In the 1 November UN Universal Periodic Review of Sri Lanka, the UK raised concerns about the attacks on and intimidation of journalists, human rights defenders and the legal professions. We recommended that the Sri Lankan Government investigate alleged grave breaches of humanitarian law during the conflict. This recommendation was

[30] Found at Foreign, Commonwealth and Development Office, 'Human Rights and Democracy Reports' (2023) https://www.gov.uk/government/collections/human-rights-and-democracy-reports accessed 1 August 2025.

[31] Foreign, Commonwealth and Development Office, 'Human Rights and Democracy: the 2022 Foreign, Commonwealth and Development Office Report' (2022) https://www.gov.uk/government/publications/human-rights-and-democracy-report-2022/human-rights-and-democracy-the-2022-foreign-commonwealth-development-office-report accessed 1 August 2025.

[32] ibid.

[33] For example, in Thailand and for the UNDP programme 'Mainstreaming Human Rights', see FCDO Development Tracker, 'Strengthening Human Rights in Thailand' (2017) https://devtracker.fcdo.gov.uk/projects/GB-GOV-3-PHR-THB-041701/summary accessed 1 August 2025; FCDO Development Tracker (2024) https://devtracker.fcdo.gov.uk/programme/XM-DAC-41114-PROJECT-00091871/summary accessed 1 August 2025.

[34] See n 26.

> accepted, along with 110 of the 210 recommendations made in that review. We also recommended that the Sri Lankan Government ensure a climate in which all citizens can express their opinions freely.[35]

The extent of the Government's engagement with the UPR in its foreign policy is, perhaps, unsurprising given its active role at the HRC.[36] What is curious, though, is that this activity is so widely publicized whereas the same cannot be said with respect to the UPR and domestic policy. This is at least indicative that, in practice, the UPR has been more relevant for the Government to pursue human rights abroad, rather than to develop them at home.

Factors affecting government engagement

The preceding discussion has enabled us to see how the Government has sought to engage with the UPR in its domestic functions. Next, we turn to examine the factors that affect the UPR's impact. This is an important issue to unpick. Foremost, it can help us better understand the limitations of a state's domestic framework and how it receives and deals with international human rights. Equally, it is an opportunity to identify potential issues with the international framework, in this case the UPR, so that it may appropriately influence the domestic sphere. With respect to the UK Government, two, interrelated factors are discussed here: the nature and efficacy of the coordination of the UPR, and the role of the human rights culture in government.

The efficacy of internal coordination

Scholarship on state compliance emphasizes the importance of the executive's management and coordination of the state's response to decisions and judgments of international mechanisms and courts. Commenting on the implementation of ECtHR judgments, Alice Donald and Philip Leach suggest that 'co-ordination of implementation at the executive level is frequently a complex and demanding task, particularly where action is required by multiple agencies'.[37] They note that, as a result, some executives

[35] Baroness Warsi, HL Deb 8 January 2013, vol 742, col 29.

[36] The UK has been elected to the HRC on five occasions. On the UK's role at the HRC, see Rhona Smith, Conall Mallory and Sean Molloy, 'Brexiting Human Rights Diplomacy at the United Nations Human Rights Council: Opportunity or Cause for Concern?' (2020) 24 *The International Journal of Human Rights* 414.

[37] Donald and Leach (n 1) 92.

have developed 'systematized methods' for implementation.[38] The Open Society Justice Initiative show similar trends in other regional systems.[39]

It is reasonable to query whether the current approach of the UK Government to coordinating the UPR is most effective. As we have seen, different departments are afforded the principal responsibility for reporting to the various UN mechanisms. For instance, the Disability Unit, which leads on reporting and follow-up for the Convention on the Rights of Persons with Disabilities (CRPD), engages with civil society and other stakeholders and disseminates information about the CRPD across government.[40] For the Convention on the Rights of the Child (CRC), the Department for Education co-chairs the CRC Action Group, which meets quarterly, bringing together senior officials from across government, Parliament, children's charities and the Children's Commissioner for England.[41] The current approach has been described as one of mainstreaming. Rob Linham, Deputy Director of Rights Policy at the MoJ, explained this as follows:

> [E]very one of my colleagues in whichever department is asked to bear human rights in mind and to be aware of the United Kingdom's obligations when making policy. Rather than having a central policeman or policewoman, I suppose, the goal is that every department is cognisant of those obligations. My team fulfils a function that allows us to co-ordinate on questions that are cross-cutting, where there is a systemic issue perhaps about the operation of a system of human rights that comes up in many different places. It also allows us to be aware of where there are particularly significant issues, but, ultimately, not least given that each government department is individually a public authority under Section 6 of the Human Rights Act 1998, we consider it is best for each of those departments to be responsible for their own compliance with the United Kingdom's obligations.[42]

The Government's most recent position is that this approach 'works well' and that it is 'not in favour of further formal mechanisms beyond the arrangements

[38] ibid 94.

[39] Open Society Justice Initiative, 'From Judgment to Justice: Implementing International and Regional Human Rights Decisions' (2010)https://www.justiceinitiative.org/publications/judgment-justice-implementing-international-and-regional-human-rights-decisions accessed 1 August 2025.

[40] Cabinet Office, 'Disability Unit: About Us' (2025) https://www.gov.uk/government/organisations/disability-unit/about accessed 1 August 2025.

[41] Bingham Centre for the Rule of Law (n 12) 5.

[42] Joint Committee on Human Rights, 'Oral Evidence: Lord Bellamy and Rob Linham' (n 23).

that we have at the moment'.[43] This is, and has been, the Government's position for some time: when the HRA 1998 was introduced, proposals for a designated department responsible for human rights were rejected. Human rights were to 'run into the bloodstream of each department',[44] rather than be 'outsourced'.[45]

The considered efficacy of the mainstreaming approach appears to rest on the basis that current arrangements already allow departments to work together effectively. Lord Bellamy, former Minister for Human Rights, puts this down to the 'deeply rooted' convention of collective responsibility.[46] It is also thought that keeping specific departments responsible for different treaties and mechanisms allows them to develop and apply their respective policy expertise.[47] Under the current system, too, if particularly complicated or sensitive human rights issues arise, then the advice of officials in the MoJ can still be sought. When we look at what happens in practice, there is indeed evidence of how the current approach has produced meaningful human rights outcomes. The CRC Action Group, for instance, has led to the development of training for civil servants on human rights and 'Child Rights Impact Assessments'.[48] In terms of the Government's reporting to the UN mechanisms, too, the UK's reports for the UPR have always been timely, and at the time of writing, the UK is one of 49 states without any overdue reports to the treaty bodies.[49]

It is plain, however, that there is room for improvement in the Government's approach. In Chapter 3, we saw that the timeliness and breadth of the UK's (Government's) consultation with stakeholders for the UPR was questionable. For both the CRC and the CRPD there appear to have developed designated networks of stakeholders, including parliamentarians, that routinely engage with the Government.[50] It is unclear whether the

[43] ibid.

[44] Janet L Hiebert and James B Kelly, *Parliamentary Bills of Rights: The Experiences of New Zealand and the United Kingdom* (Cambridge University Press 2015) 271.

[45] Kavanagh, *The Collaborative Constitution* (n 5) 130–132.

[46] Joint Committee on Human Rights, 'Oral Evidence: Lord Bellamy and Rob Linham' (n 23).

[47] House of Commons Women and Equalities Committee, *Levelling Up & Equality: A New Framework for Change: Government Response to the Committee's First Report* (2021–22, HC 994) 16.

[48] Children's Rights Alliance for England, 'General Measures of Implementation' https://crae.org.uk/our-work/policy-priorities/general-measures-implementation accessed 1 August 2025.

[49] OHCHR, 'List of States Parties without Overdue Reports' (2025) https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/LateReporting.aspx accessed 1 August 2025.

[50] Disability Unit, 'Regional Stakeholder Network to Give Disabled People a Stronger Voice' (2020) https://www.gov.uk/government/news/regional-stakeholder-network-to-give-disabled-people-a-stronger-voice accessed 1 August 2025; also see Colin Caughey,

same applies for the other treaty bodies or the UPR. Furthermore, the suggestion that collective responsibility enables effective working between departments is challenging to accept. An Institute for Government report notes how '[d]epartments in Whitehall enjoy a relatively high degree of autonomy and are famously siloed, reinforced by budget allocation and accountability mechanisms'.[51]

There is the question, then, of how the Government's approach might change to enable it to better engage with the UPR. In at least the last ten years, the UN has promoted the so-called National Mechanisms for Implementation, Reporting and Follow-up (NMIRFs). NMIRFs, which have been emerging globally in the last two decades,[52] are defined by the Office of the High Commissioner for Human Rights (OHCHR) as:

> a national public mechanism or structure that is mandated to coordinate and prepare reports to and engage with international and regional human rights mechanisms (including treaty bodies, the universal periodic review and special procedures), and to coordinate and track national follow-up and implementation of the treaty obligations and the recommendations emanating from these mechanisms. It may be ministerial, interministerial or institutionally separate.[53]

A 2016 study by the OHCHR found that an 'effective' NMIRF typically has four capacities: (1) to engage with and report to the international mechanisms, (2) to coordinate information gathering and dissemination between branches of the state, (3) to consult with civil society, and (4) to manage information, including that relating to implementation.[54] Importantly, NMIRFs are not responsible for implementation themselves. Rather, they seek to coordinate implementation by the relevant actors, as

'Government Human Rights Focal Points: Lessons Learned from Focal Points under the Convention on the Rights of Persons with Disabilities' (2021) 39 *Netherlands Quarterly of Human Rights* 119, 137–138.

51 James Page, Jonathan Pearson, Brian Jurgeit and Marc Kidson, 'Transforming Whitehall: Leading Major Change in Whitehall Departments' (Institute for Government 2012) https://www.instituteforgovernment.org.uk/sites/default/files/publications/Transforming_Whitehall_Departments_0.pdf accessed 1 August 2025.

52 There are estimated to be 40 NMIRFs globally, see Universal Rights Group, 'National Mechanisms for Implementation, Reporting and Follow-up (NMIRFs)' https://www.universal-rights.org/national-mechanisms-for-implementation-reporting-and-follow-up-nmirfs/ accessed 1 August 2025.

53 OHCHR, 'National Mechanisms for Reporting and Follow-up: A Study of State Engagement with International Human Rights Mechanisms' (2016) UN Doc HR/PUB/16/1/Add.1, 2.

54 ibid.

Lorien and Lagoutte explain: 'On no occasion do the sets of guidance on different types of focal points expect them to directly implement activities delivering on substantial rights to rights-holders. Not only is this not expected, but much of these guiding documents explicitly warn against carrying out such activities directly.'[55]

Thus, the inclusion of the 'I' in NMIRF has led to some confusion about precisely what these mechanisms are for.[56] Rachel Murray further suggests: 'Implementation is complex and the inclusion of the word in "NMIRF" has perhaps provided an unhelpful diversion from understanding the intricacy of the numerous processes, involving various state authorities which are needed to implement all aspects of a decision.'[57]

Notwithstanding this confusion, in practice it appears that these bodies, where they have been established, focus principally on coordination of reporting rather than of implementation.[58]

The rationale for NMIRFs is that they endeavour to assist states navigate the inherent challenges that arise from engagement with international human rights mechanisms, such as the treaty bodies and the UPR. Foremost, states encounter significant resource and capacity challenges because of the frequency of reviews; the requirement to prepare and submit reports, which typically require close consultation with stakeholders; and the implementation of recommendations. Given the various and often overlapping international mechanisms, there does appear to be a simple logic to the idea that an executive should have a single department or other body that navigates and coordinates reporting and implementation.

At the time of writing, the UK Government does not have an NMIRF. It is perhaps unsurprising, given the increasing emphasis placed on NMIRFs by the UN, that the Government has been asked on several occasions to adopt one. Notably, following the UK's third and fourth reviews, letters from the High Commissioner for Human Rights to the Foreign Office

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55 Sébastien Lorion and Stéphanie Lagoutte, 'Implementers or Facilitators of Implementation? Governmental Human Rights Focal Points' Complex Role in Enhancing Human Rights Compliance at the National Level' in Rachel Murray and Debra Long (eds), *Research Handbook on Implementation of Human Rights in Practice* (Edward Elgar Publishing 2022) 133.

56 Rachel Murray, 'The "Implementation" in "National Mechanisms for Implementation, Reporting and Follow-up": What about the Victims?' in Frans Viljoen , Charles Fombad, Dire Tladi, Ann Skelton and Magnus Killander (eds), *A Life Interrupted: Essays in Honour of the Lives and Legacies of Christof Heyns* (Pretoria University Law Press 2022).

57 ibid 442.

58 Danish Institute for Human Rights, 'Report on Country Experiences with HR-SDG Integrated National Mechanisms for Implementation, Reporting and Follow-up' (2021) https://www.humanrights.dk/sites/humanrights.dk/files/media/document/COUNTRY%20EXPERIENCES%20WITH%20HR-SDG%20INTEGRATED%20NATIONAL%20MECHANISMS__ENG_accessible.pdf accessed 1 August 2025.

encouraged the UK to establish an NMIRF.[59] In 2022, following the UK's fourth UPR, 86 civil society organizations (CSOs) co-signed a joint statement which, among other things, called upon the UK Government to establish an NMIRF.[60] The EHRC has made similar suggestions,[61] as has Parliament's Women and Equalities Committee.[62] It is reasonable to query whether, in light of these calls, there is good cause for the Government to consider introducing an NMIRF. Could an NMIRF, however constituted, further support the Government to engage with the UPR process? While it is plausible, there are several issues with this proposal. First, an 'effective' NMIRF is contingent on certain conditions, notably on it being a standing body (rather than ad hoc), having political ownership and having expert, dedicated staff.[63] Without sufficient leadership or buy-in from a government, there is a risk that an NMIRF would be rendered a pointless, bureaucratic structure. Second, we should be more cautious to the idea that bringing together responsibilities – centralizing – is necessarily a good thing. Colin Caughey, on the Government's approach to the CRPD, explains that 'the appropriateness of comprehensive structures covering *all* rights and focused on human rights reporting and follow-up requires consideration. Concerns have been raised that clustering treaty body examinations may undermine the fundamental and specific nature of the individual Conventions'.[64] It is plausible that a more focused, specialized approach, like that taken by

[59] 'Letter from Zeid Ra'ad Al Hussein, High Commissioner for Human Rights to Boris Johnson, Secretary of State for Foreign and Commonwealth Affairs', dated 23 October 2017 https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session27/GB/UKHCLetter.pdf accessed 1 August 2025; 'Letter from Volker Türk, High Commissioner for Human Rights to James Cleverly, Secretary of State for Foreign, Commonwealth and Development Affairs', dated 17 July 2023 https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/sessions/session41/HC_letter_UK-EN.pdf accessed 1 August 2025.

[60] Just Fair, 'UK's Human Rights Report Card Marked' (2022) https://justfair.org.uk/wp-content/uploads/2022/12/Joint-Statement-of-CSOs-UK-UPR-FINAL_.pdf accessed 1 August 2025.

[61] EHRC, 'Written Evidence to Joint Committee on Human Rights' (2018) https://committees.parliament.uk/writtenevidence/97371/html/ accessed 1 August 2025; Marcial Boo, 'Universal Periodic Review – the UK's Status as a Human Rights Champion Could Be under Threat' (EHRC Blog 2023) https://www.equalityhumanrights.com/media-centre/blogs/universal-periodic-review-uks-status-human-rights-champion-could-be-under-threat accessed 1 August 2025; EHRC, 'Military Personnel Must Be Held Accountable for Crimes Committed Overseas, Warns Human Rights Body' (2020) https://www.equalityhumanrights.com/media-centre/military-personnel-must-be-held-accountable-crimes-committed-overseas-warns-human accessed 1 August 2025.

[62] Women and Equalities Committee (n 47) 16.

[63] OHCHR, 'National Mechanisms for Reporting and Follow-up' (n 53) 2.

[64] Caughey (n 50) 138. Emphasis added.

the UK Government, is in the end more appropriate to reflect the diverse interests and considerations that arise when looking at different human rights issues. Similar concerns were raised when the UK introduced the EHRC and abolished the former equality commissions: the Commission for Racial Equality, the Equal Opportunities Commission, and the Disability Rights Commission.[65] Then again, it is important not to see this as a question of centralizing versus mainstreaming. NMIRFs aim to facilitate and coordinate engagement with the processes and recommendations of the UN bodies across government. They do not (and should not) replace the human rights work that occurs in departments. If the Government were to proceed with introducing an NMIRF, it should be conceived as a catalyst for greater engagement with the UN mechanisms throughout Whitehall. Finally, and notwithstanding some of the observations made here, there has not been any comprehensive review or examination of the Government's process for coordinating responses to the UN mechanisms.[66] Most work to date has been to show what happens in government, rather than to assess whether that is the most 'effective' approach.[67] Before proposals to establish a NMIRF should be taken seriously, there must be a careful review of current arrangements.

The nature and extent of the human rights culture

Beyond processes, another relevant factor that will affect the Government's engagement with the UPR is the extent and nature of the human rights culture across Whitehall. Speaking on the Human Rights Act 1998 (HRA 1998), former Lord Chancellor, Lord Irvine, described a human rights culture as follows:

> What I mean and I am sure what others mean when they talk about a culture of respect for human rights is to create a society in which our public institutions are habitually, automatically responsive to human rights considerations in relation to every procedure they follow, in relation to every practice they follow, in relation to every decision they take, in relation to every piece of legislation they sponsor. A culture of respect for human rights is one which shows a high degree of sensitivity

[65] Joint Committee on Human Rights, *Equality and Human Rights Commission* (2009–10, HL 72, HC 183).

[66] There has, however, been a similar inquiry into the implementation of ECtHR judgments, see Joint Committee on Human Rights, *Human Rights Judgments* (2014–15, HL 130, HC 1088).

[67] Bingham Centre for the Rule of Law (n 12).

> on the part of our public institutions to the obligations that derive from the [HRA 1998].[68]

Human rights culture thus refers to public authorities' awareness and understanding of human rights, and the responsiveness to human rights concerns when making decisions, and when developing policy and law. Of course, the presence of such a culture is integral for the success of the HRA 1998, but it is also relevant when it comes to other human rights considerations, including those that flow from the UK's international obligations. The impact of treaties is known to be shaped, among other things, by the extent to which there is a human rights culture in a state.[69] Equally, the likelihood that actors in government will engage with the UPR will be affected by whether they are aware of and understand the review process, and are responsive to the issues it has raised, notably the recommendations.

It is doubtful, however, whether the new human rights culture, envisioned by the architects of the HRA 1998, took hold across the three branches of state.[70] Evidence given to the JCHR in 2011 by University College London's Constitution Unit explained:

> Many departments have barely scratched the surface in bringing the human rights message to their public authorities and hybrid bodies. Will they do so without continued direction and scrutiny by the Home Office or another organisation at the centre. In the absence of monitoring mechanisms, it seems extremely unlikely that departments will continue to view human rights as a priority issue. And, already, the system of human rights co-ordinators in

[68] Joint Committee on Human Rights, 'Minutes of Evidence 19 March 2001' (2001) para 38 https://publications.parliament.uk/pa/jt200001/jtselect/jtrights/66/1031906.htm accessed 1 August 2025.

[69] Christof Heyns and Frans Viljoen, 'The Impact of the United Nations Human Rights Treaties on the Domestic Level' (2001) 23 Human Rights Quarterly 483; Laura Lundy, Ursula Kilkelly, Bronagh Byrne and Jason Kang, 'The UN Convention on the Rights of the Child: A Study of Legal Implementation in 12 Countries' https://www.unicef.org.uk/wp-content/uploads/2012/11/UNICEFUK_2012CRCimplementationreport-FINAL-PDF-version.pdf accessed 1 August 2025.

[70] Zoë Jay, 'Keeping Rights at Home: British Conceptions of Rights and Compliance with the European Court of Human Rights' (2017) 19 British Journal of Politics and International Relations 842, 852. Jay cites Lord Lester's 'Personal Explanatory Note' to the report of the Commission on a Bill of Rights, 2012, https://webarchive.nationalarchives.gov.uk/ukgwa/20130206065653/ https://www.justice.gov.uk/downloads/about/cbr/uk-bill-rights-vol-1.pdf accessed 1 August 2025.

> departments shows signs of unravelling as officials switch their attention to new issues.[71]

By 2012, the EHRC found there continued to be 'shortcomings in how government and public authorities implement human rights protections in different sectors'.[72] Aileen Kavanagh queries whether the idea of a human rights culture was simply 'a piece of political rhetoric to champion the achievement of the HRA'.[73] It is equally debatable whether, if such a culture does exist, that it extends beyond the rights and duties contained in the HRA 1998. Various sources do emphasize that government actors should not consider themselves limited to the HRA 1998 and should be aware and responsive to international human rights law more generally. Notably, the Cabinet Guide to Making Legislation, in its guidance on the ECHR, notes the role of the JCHR in Parliament, and that it 'may also ask about compliance with any international human rights instrument which the UK has ratified; it does not regard itself as limited to the ECHR'.[74] The Attorney General's Guidance on Legal Risk, which sets out the 'common framework' for government lawyers, explains that the 'rule of law requires compliance by the state with its obligations in international law as in national law, even though they operate on different planes'.[75] To that end, the guidance calls on government lawyers to bear international law in mind when carrying out risk assessments and to consider the 'content of the international obligations, their relevance and applicability, why they bind and at what level'.[76] For ministers, the Ministerial Code explains that it should be 'read against the background of the overarching duty on ministers to comply with the law,

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71 The Constitution Unit, 'Evidence to the Joint Committee on Human Rights' (2001) https://publications.parliament.uk/pa/jt200001/jtselect/jtrights/66/66ap19.htm accessed 1 August 2025.

72 Equality and Human Rights Commission, 'Human Rights Review 2012: How Fair Is Britain' (2012) 23 https://www.equalityhumanrights.com/sites/default/files/2021/human-rights-review-2012_0.pdf accessed 1 August 2025.

73 Kavanagh, *The Collaborative Constitution* (n 5) 179.

74 Cabinet Office, 'Guide to Making Legislation' (n 16) 114.

75 Attorney General's Office, 'Attorney General's Legal Risk Guidance' (2024) para 9 https://assets.publishing.service.gov.uk/media/672b7189abb279b2de1e8c59/AG_s_Legal_Risk_Guidance_2024.pdf accessed 1 August 2025.

76 ibid 13. Note, however, that this most recent guidance replaced the previous (2022) version which, under the previous Conservative administration, did not place such emphasis on compliance with international law. See George Peretz, 'The Policy Exchange Paper on the Attorney General's New Legal Risk Guidelines: Excited Adjectives, Unpersuasive Analysis' (*UK Constitutional Law Association*, 4 December 2024) https://ukconstitutionallaw.org/2024/12/04/george-peretz-the-policy-exchange-paper-on-the-attorney-generals-new-legal-risk-guidelines-excited-adjectives-unpersuasive-analysis/ accessed 1 August 2025.

including international law and treaty obligations, and to protect the integrity of public life'.[77] In these respects, government actors – ministers, civil servants and legal advisers – are required to keep international law in mind when exercising their functions. It is notable, though, that beyond the ECHR, only one human rights treaty (and mechanism) is explicitly mentioned in the Guide to Making Legislation, namely the CRC (and its Committee):

> The Government has made a commitment to give due consideration to the articles of the UN Convention on the Rights of the Child (UNCRC) when making new policy and legislation. In doing so, the Government has stated that it will always consider the UN Committee on the Rights of the Child's recommendations but recognise that, like other state signatories, the Government and the UN committee may at times disagree on what compliance with certain articles entails.[78]

This 'due regard' duty is also applicable in Wales, though for Welsh ministers this is a *legal* duty which, if not followed, could give rise to judicial review.[79] Similar such duties are not, however, applicable with respect to the other UN treaties, the treaty bodies, nor the other UN mechanisms (including the UPR). This does not prove that these matters are never on the minds of government actors, though their absence in the guidance might mean they are less likely to be a relevant consideration when developing policy. The extent of the human rights culture – the range of relevant human rights issues that officials are aware of and responsive to – will inevitably affect engagement with the UPR and, indeed, other international human rights mechanisms.

Resistance toward international human rights institutions?

The promise of a human rights culture in an institution presupposes that such a culture is largely positive and there exists a general perception that human rights and human rights institutions are perceived wholly or partly as forces for good. Literature on state compliance reminds us that an important factor for determining the influence of international human rights law is a general tendency on the part of the state to embrace rights.[80] Equally, we

[77] Cabinet Office, 'Ministerial Code' (2024) para 1.6 https://www.gov.uk/government/publications/ministerial-code/ministerial-code accessed 1 August 2025.

[78] Cabinet Office, 'Guide to Making Legislation' (n 16) 113.

[79] Rights of Children and Young Persons (Wales) Measure 2011, s 1.

[80] Simmons remarks, '[t]he ability of treaties to impact national agendas is a highly conditional claim. It operates on the margins within some states with a proclivity to embrace rights anyway', Beth Simmons, *Mobilising for Human Rights: International Law in Domestic Politics* (Cambridge University Press 2009) 129. Also see Andrew Moravcsik, 'The Origins

might expect that a government's engagement with its state's UPR will be shaped by the actors' general perceptions of human rights, in particular *international* human rights. In the UK's case, there has been a general aversion (sometimes hostility) from senior government actors toward the findings of international human rights bodies. This can be seen most clearly when examining the relationship between the UK and ECHR.[81] Criticisms of the Convention and its Court are longstanding and have been made by academics, politicians and judges alike. Among those most critical of the regional system, though, have been ministers – past and present – and other senior government officials. The most recent Labour administration, though seemingly more receptive to international law compared to its Conservative predecessor,[82] still seeks reform of the ECHR, which, the Lord Chancellor considers, is 'disconnected from public reasonableness'.[83] Former Lord Chancellor under Prime Ministers Rishi Sunak (2022–2024) and Boris Johnson (2019–2022), Dominic Raab claimed certain applications of the ECHR to be 'nonsense', that it had been abused by criminals, and that its reform was necessary to 'restore some common sense to our justice system'.[84] The 2022 consultation on the HRA 1998, begun while Raab was in office, claimed that there has been an 'over-reliance on the Strasbourg case law at the expense of promoting a home-grown jurisprudence tailored to the UK tradition of liberty and rights'.[85] Former Home Secretary (2010–2016) and Prime Minister (2016–2019), Theresa May was also critical of the ECHR as it 'bind[s] the hands of Parliament, adds nothing to our prosperity, makes us

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of Human Rights Regimes: Democratic Delegation in Postwar Europe' (2000) 54 *International Organization* 217; Oona A Hathaway, 'Do Human Rights Treaties Make a Difference?' (2002) 111 *Yale Law Journal* 1935; Courtney Hillebrecht, 'Implementing International Human Rights Law at Home: Domestic Politics and the European Court of Human Rights' (2012) 13 *Human Rights Review* 279.

81 Katja S Ziegler, Elizabeth Wicks and Loveday Hodson, *The UK and European Human Rights: A Strained Relationship?* (Bloomsbury Publishing 2015).

82 'International Law "at Heart" of Starmer's Foreign Policy, Says Attorney General' *BBC News* (24 June 2025) https://www.bbc.com/news/articles/c3354d5j8jzo accessed 1 August 2025.

83 Ministry of Justice and Shabana Mahmood, 'Lord Chancellor Speech at the Council of Europe' (GOV.UK, 18 June 2025) https://www.gov.uk/government/speeches/lord-chancellor-speech-at-the-council-of-europe accessed 1 August 2025.

84 Dominic Raab, 'We Will Make Sure Every Victim Sees Justice Done | CPC21 Speeches' (2021) https://cchq2019.webflow.io/news/we-will-make-sure-every-victim-sees-justice-done accessed 1 August 2025.

85 Ministry of Justice, 'Consultation Outcome: Human Rights Act Reform: A Modern Bill of Rights' (2022) para 114 https://www.gov.uk/government/consultations/human-rights-act-reform-a-modern-bill-of-rights/human-rights-act-reform-a-modern-bill-of-rights-consultation accessed 1 August 2025.

less secure by preventing the deportation of dangerous foreign nationals'.[86] Similar claims that the ECHR has led to the 'abuse' of rights have been made by former Prime Ministers David Cameron (2010–2016)[87] and Tony Blair (1997–2007).[88]

Though much of the literature in this area highlights the hostility toward the European Convention and Court, similar observations can be made with respect to the UN framework. Recent reports and observations made on human rights issues in the UK, by UN bodies, have been strongly rejected by government ministers. Though it is unsurprising for the Government to feel the need to defend itself in light of such critique, the tone of its responses indicates particular animosity. Most notable is the 2019 report published by the Special Rapporteur on extreme poverty and human rights,[89] which, in quoting Thomas Hobbes, concluded that life for those in the UK can be 'solitary, poor, nasty, brutish, and short'.[90] The report was quickly dismissed by government ministers, who claimed it was politically charged – 'a completely inaccurate picture of our approach to tackling poverty' – and sought to complain to the UN on this basis.[91] Previous responses to the reports of Special Rapporteurs have be equally as resistant.[92] Similar opposition can be seen following treaty body reviews. In 2016, the Committee for the CRPD concluded an inquiry into the UK, finding 'grave or systematic violations of the rights of persons with disabilities', mostly as a result of welfare reform.[93] The Government's response was to 'strongly

[86] Home Office and Theresa May, 'Home Secretary's Speech on the UK, EU and Our Place in the World' (GOV.UK, 25 April 2016) https://www.gov.uk/government/speeches/home-secretarys-speech-on-the-uk-eu-and-our-place-in-the-world accessed 1 August 2025.

[87] 'David Cameron: I'll Fix Human Rights "Mess"' *BBC News* (15 June 2015) https://www.bbc.com/news/uk-politics-33134338 accessed 1 August 2025.

[88] Ned Temko and Jamie Doward, 'Revealed: Blair Attack on Human Rights Law' *The Guardian* (14 May 2006) https://www.theguardian.com/politics/2006/may/14/humanrights.ukcrime accessed 1 August 2025.

[89] HRC, 'Visit to the United Kingdom of Great Britain and Northern Ireland: Report of the Special Rapporteur on Extreme Poverty and Human Rights' (2019) UN Doc A/HRC/41/39/Add.1.

[90] ibid 95.

[91] Robert Booth, 'Amber Rudd to Lodge Complaint over UN's Austerity Report' *The Guardian* (22 May 2019) https://www.theguardian.com/politics/2019/may/22/amber-rudd-to-lodge-complaint-over-un-austerity-report accessed 1 August 2025.

[92] Rhona KM Smith, 'States of Denial: Rationalising UK Government Responses to UN Special Procedures' (2021) 21 *Human Rights Law Review* 458.

[93] UN Committee on the Rights of Persons with Disabilities, 'Inquiry Concerning the United Kingdom of Great Britain and Northern Ireland' (2016) UN Doc CRPD/C/15/R.2/Rev.1.

disagree' with the report, describing it as 'narrow in scope' and claiming that it presented 'an inaccurate picture of life for disabled people in the UK'.[94]

Different explanations have been posited to understand why the Government can be so outwardly resistant to the findings of international human rights bodies. Some have deployed the term 'British exceptionalism' to describe the perception that the UK is entitled to take a different approach to international law because of its 'constitutional traditions founded on a set of superior values'.[95] This has been used to explain the Government's antagonism toward the special procedures.[96] Linked to British exceptionalism is the idea that human rights are viewed as 'for export'. Export theory has been most notably used to explain the UK's role in drafting, signing and ratifying the key post-war human rights conventions (such as the International Covenant on Civil and Political Rights (ICCPR) and the ECHR). AWB Simpson, in *Human Rights and the End of Empire*, explains how the UK (principally its government) perceived human rights as an issue of foreign policy: 'human rights were [perceived as] for foreigners, who did not enjoy them, not for the British, who enjoyed them anyway. They were for export.'[97] Human rights were historically the responsibility of the Foreign Office,[98] and it was the view within that department that 'an international bill of human rights was a weapon to be deployed against other governments'.[99] Departments concerned with domestic affairs, such as the Home Office, 'believed that they presided over the very home of human rights' and thus had little to fear or do in the event that the UK became a party to an international human rights treaty.[100] Both export theory and exceptionalism emphasize that institutions and political actors in the UK believe in the state's uniqueness and superiority for ensuring human rights. Through either lens, we see a difficult relationship between the Government and the international bodies responsible for monitoring and making determinations on human rights in the UK.

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[94] UK Government, 'Observations by the United Kingdom of Great Britain and Northern Ireland on the Report of the Committee on Its Inquiry Carried out under Article 6 of the Optional Protocol: Committee on the Rights of Persons with Disabilities' (2017) UN Doc CRPD/C/17/R.3, paras 1–7.

[95] Frederick Cowell, 'British Exceptionalism towards the European Court of Human Rights' (2019) 23 *The International Journal of Human Rights* 1183.

[96] Smith, 'States of Denial' (n 92).

[97] AWB Simpson, *Human Rights and the End of Empire: Britain and the Genesis of the European Convention* (Oxford University Press 2010) 347.

[98] ibid 337.

[99] ibid 338.

[100] ibid. Also see Lady Hale, 'The United Kingdom Constitution on the Move (Speech Delivered at the Canadian Institute for Advanced Legal Studies)' (2017) https://supremecourt.uk/uploads/speech_170707_8a3787b4bd.pdf accessed 1 August 2025.

Such outward resistance to these bodies is bound to have had an adverse effect on the Government's willingness to engage with their findings and decisions. Yet it is important not to overemphasize this influence. Notwithstanding the Government's discontent with the ECtHR, the UK has one of the better rates of compliance.[101] Though this could be down to the legally binding nature of the Court's decisions, the same can be seen with the recommendations from the Special Rapporteur's on Poverty's Report in 2019. Despite the initial rejection of its findings, there was a subsequent change of heart indicated by a Work and Pensions minister claiming it had 'highlighted some important views and opinions to which we should rightly be looking to respond'.[102] Subsequent changes were made to, for example, the way in which the Government measures poverty, in line with the report's recommendations.[103] A possible explanation for this paradox is the existence of domestic pressure that pushes the Government to act, despite its pushback. On the ECtHR, for instance, Alice Donald and Philip Leach suggest that 'a politically driven negative discourse about the Court has taken hold at the same time as, away from the public gaze, institutional arrangements for implementing ECtHR judgments have become more systematic and robust'.[104] Similarly, in the case of the Special Rapporteur's report on poverty, the change of tone from the Government could have been the result of the subsequent affirmation of the report from domestic audiences, including the media[105] and parliamentarians.[106] Compliance with international human rights in the UK has thus been described as a 'bitter pill'.[107] Thus, despite initial hostility of the Government, domestic institutions can be effective in pushing back.

In any event, it is reasonable to query whether similar attitudes can be identified with respect to the UPR. On one hand, it is curious that the UPR is more visibly used as a foreign affairs tool than to inform domestic policy. There are numerous documented instances of the UPR being recognized as a means for the UK to influence human rights abroad, and it has, indeed,

[101] Courtney Hillebrecht, *Domestic Politics and International Human Rights Tribunals: The Problem of Compliance* (Cambridge University Press 2014) 48–49.

[102] HC Deb, 7 January 2019, vol 652, col 143.

[103] HRC, 'Report of the Special Rapporteur on Extreme Poverty and Human Rights on His Visit to United Kingdom of Great Britain and Northern Ireland: Comments by the State' (2019) UN Doc A/HRC/41/39/Add.3, para 9.

[104] Donald and Leach (n 1) 232.

[105] For example, see May Bulman, 'UN Tears into Tory-Led Austerity as "Ideological Project Causing Pain and Misery" in Devastating Report on UK Poverty Crisis' *The Independent* (22 May 2019) https://www.independent.co.uk/news/uk/home-news/un-poverty-austerity-uk-universal-credit-report-philip-alston-a8924576.html accessed 1 August 2025.

[106] For the debate on the report, see HL Deb 19 June 2019, vol 798, col 769.

[107] Hillebrecht, *Domestic Politics and International Human Rights Tribunals* (n 101) 98–99.

been used to guide foreign aid spending, showcase the work of the foreign office, and to give account of the Government's work in Parliament. None of the sources reviewed for this project revealed similar activity concerning human rights in the UK. If it is the case that the Government has, in fact, utilized the UPR wholly or mostly as a process to advance foreign policy, this could suggest the continued relevance of export theory. Perhaps the view in government is that (to quote AWB Simpson) the UPR is a 'weapon to be deployed against other governments',[108] not a process of self-improvement. Yet, it is notable that, unlike other international human rights mechanisms, the Government has not explicitly sought to dismiss or decry the UPR. Unlike the tone of its replies to the special procedures, its responses to UPR recommendations do not use language which denies or dismisses the authority or legitimacy of the mechanism. Equally, it cannot be seen that government ministers have expressed any hostility toward the UPR in domestic political discourse. In fact, where ministers have spoken of the process, this has been in a positive light. Lord McNally, who led the UK's second UPR, explained that:

> [C]ertainly if anybody asks me the *high-point of my term as minister*, it was to go to Geneva. Every four years we do this, and a minister appears before the UN Human Rights Council, and makes a short presentation and then answers questions for an hour, and *I was very proud to do that*. The only coverage I got for it was that the Daily Mail said it was an outrage that a British minister had to justify our human rights record to Belarus and Iran, which indeed I did.[109]

This may not, of course, be the view of all actors in government. But the fact that there has not been such resistance to the UPR as there has been to other international human rights courts and mechanisms is significant. There are two potential, interrelated explanations for this. First, it is worth remembering that the UPR is intended to be a cooperative and non-confrontational process. It is plausible that, like we have seen in other states,[110] the Government does not perceive the UPR as such an adversarial process when compared with, say, the UN treaty bodies. The fact that the Government is entitled to accept or note recommendations also grants significant ownership over the process. Second, and relatedly,

[108] Simpson (n 97) 338.

[109] Institute for Government, 'Lord McNally: Ministers Reflect' (21 July 2015) https://www.instituteforgovernment.org.uk/ministers-reflect/lord-mcnally accessed 1 August 2025. Emphasis added.

[110] See Chapter 4, 'Stimulating domestic dialogue'.

the Government is both primarily responsible for the UK's UPR and for engaging in the reviews of other states. This dual function – reviewer and reviewee – means that the Government has an incentive not to undermine the legitimacy of the process. To do so would arguably weaken its influence as a reviewer at the UPR. If it is the case that, when compared with the other international mechanisms, the Government views the UPR more positively as a legitimate means of monitoring and informing domestic human rights, then this arguably presents a unique and important opportunity for the mechanism and for the advocates involved in the process.

Conclusion

By examining government engagement with the UPR, this chapter has contributed to a broader understanding of how international human rights enter and influence the executive machine. We can see here how the Government has used the UPR to engage in dialogue with other domestic actors. It is, of course, difficult to say in the end what effect this might have on the human rights situation. Optimistically, we might expect this to at least affect a better mutual understanding between the Government and other actors and provide scope for collaborative efforts to advance human rights.[111] The potential for this can be seen in the work of the CRC Action Group, noted earlier. We have also seen the UPR used to justify and inform foreign policy in relation to other states' human rights situations. The fact that there is no recorded evidence of the UPR being used in a comparable way with respect to domestic policy is not conclusive but is at least suggestive that the mechanism is not routinely deployed for this purpose. Unlike the Scottish Government, which has used UPR recommendations to inform its human rights action plan, it is doubtful whether the UK Government has been influenced similarly. There are various explanations for why the Government engages (and does not engage) with the UPR, the most plausible having been set out earlier. Together, these findings reveal a more complete picture of the mechanism's influence on states and demonstrate how future research can take a more nuanced approach. This chapter has also suggested caution before assuming the desirability of governments adopting particular approaches to coordination. Further research which examines the efficacy of different forms of government mechanisms, including NMIRFs, is needed to clarify the most effective approach(es), and to ensure, in any given state, that change is necessary before altering government machinery unnecessarily. More specifically to the UK, the examination of the UPR in government has clear implications for our understanding of the UK's human

[111] ibid.

rights framework. Much of the existing work to date has, unsurprisingly, focused on the Government's role with respect to the regional (European) framework. Yet, there is a broader framework, beyond Europe, which, as this chapter has shown, is not irrelevant. How the Government engages with the UN mechanisms, particularly in the course of policy-making, is deserved of greater scholarly attention. The need to look beyond Europe at the international (UN) framework is particularly important given the Government's longstanding discontent with the regional system and the possibility of withdrawal from the ECHR.

6

The Universal Periodic Review and the Legislature

In this chapter, we continue to examine the role of the Universal Periodic Review (UPR) within the state by turning our attention to the legislative branch. Parliaments have, until recently, been overlooked as key human rights actors. Certainly, parliaments were not envisioned as having any specific role in the UPR process; they are not mentioned in the UPR's *travaux préparatoires*, nor did states in the first cycle seek to routinely involve their parliaments in the review process. Presumably, the UPR was understood at its inception to be a largely executive-led exercise. Parliaments were merely observers. However, as a result of the growing interest in parliaments from scholars and international organizations, it is now widely accepted that these institutions are central to the success of the international human rights framework. Foremost, parliaments have the powers and responsibilities to shape the promotion and protection of human rights in the state through scrutiny and oversight of the executive and the passage of legislation. International instruments and mechanisms can be impactful *through* parliaments by providing members with tools and leverage, enabling and empowering them to strive for ends that may not have been possible in their absence. At least in theory, parliaments are critical human rights actors. We are, however, continuing to learn about the practice of parliaments. Though there have been important studies on parliaments and the Council of Europe, less attention has been turned to the UN system, including the UPR.[1] To that end, this chapter examines the role of the UPR in the state by observing how and why the mechanism

[1] Notable exceptions include Eleanor Hourigan, Alex Gask and Samantha Granger, 'Parliament and Human Rights' in Alexander Horne, Louise Thompson and Ben Yong (eds), *Parliament and the Law* (Hart Publishing 2022); Brian Chang and Murray Hunt, 'The Role of Parliaments in Implementing Decisions and Recommendations from Supranational Human Rights Bodies' in Rachel Murray and Debra Long (eds), *Research Handbook on Implementation of Human Rights in Practice* (Edward Elgar Publishing 2022);

informs the work of the UK Parliament. It begins, first, by elaborating more specifically on how Parliament can contribute to the UPR's impact on the state and why we might expect it to engage with the mechanism. The second section is a survey of the activity of parliamentary select committees with a particular focus on Parliament's specialist human rights committee, the Joint Committee on Human Rights (JCHR). The third section then looks at the UPR's influence on the legislative process, debates and questions. Finally, this chapter explores competing explanations for parliamentary engagement.

The role of parliaments

Parliaments, unlike national human rights institutions (NHRIs) or non-governmental organizations (NGOs), have been 'long overlooked as national human rights actors'.[2] In part, this may be because many theories of state compliance have a tendency to view states as unitary entities, rather than as a collective of various actors.[3] There has, therefore, been 'little scope for analysis of the capacity or motivation of particular state actors, such as parliaments'.[4] This was also reflected in the institution building process for the UPR. A search of the Office of the High Commissioner for Human Rights' (OHCHR's) records of the 'Working Group on the UPR' reveals no mention of 'parliaments' or 'legislatures', nor does it appear that parliamentarians were involved in developing the UPR.[5] The primary actors involved, aside from states' governments, were NHRIs and NGOs. In the UPR's founding resolution, there is also no reference to parliament. However, the UN has over time come to recognize the central role of parliaments in the UPR. The Belgrade Principles, adopted in 2012, recognize the valuable relationship between NHRIs and parliaments, particularly in the context of the international mechanisms and the UPR.[6] The next year, in 2013,

Brice Dickson, *International Human Rights Monitoring Mechanisms: A Study of Their Impact in the UK* (Edward Elgar Publishing 2022).

2 Kirsten Roberts Lyer, 'Parliaments as Human Rights Actors: The Potential for International Principles on Parliamentary Human Rights Committees' (2019) 37 *Nordic Journal of Human Rights* 195.

3 See Chapter 4, 'Domestic mobilization: impact through domestic politics'.

4 Alice Donald and Philip Leach, *Parliaments and the European Court of Human Rights* (Oxford University Press 2016) 67.

5 As found on the OHCHR's online archives: https://extranet2.ohchr.org/ accessed 1 August 2025. The 'Working Group on the Universal Periodic Review' was established in 2006 to establish the operation of the mechanism. HRC, 'Resolution 1/103 Adopted by the HRC: The Universal Periodic Review' (2006) UN Doc A/HRC/DEC/1/103.

6 A copy of the principles can be found appended at HRC, 'Report of the Secretary-General on National Institutions for the Promotion and Protection of Human Rights' (2012) UN Doc A/HRC/20/9.

the Human Rights Council (HRC) noted the cruciality of parliaments' role in 'contributing to the fulfilment by each State Member of the United Nations of its human rights obligations' and,[7] again, in the following two years, acknowledged the 'leading role that parliaments could play in ensuring the implementation of recommendations'.[8] The most recent development is the 'Draft Principles on Parliaments and Human Rights' which, though not adopted by the HRC, represent international standards on the setting up of parliamentary human rights committees.[9] In this respect, they perform a similar function to the Paris Principles on NHRIs. The Draft Principles recognize that parliaments should consider establishing dedicated human rights committees with 'as broad a mandate as possible'.[10] These committees are expected to review legislation for its compatibility with international human rights obligations; oversee the work of government in fulfilling its human rights obligations; and train and raise awareness of parliamentarians on human rights issues.[11] Particularly relevant to the UPR, committees should also: participate in the consultations related to the mechanism, review and comment on their government's draft reports, and lead the parliamentary oversight of their government's progress implementing recommendations.[12]

This gradual consensus emerging on parliaments and the UPR reflects these institutions' unique position in the constitutional triad. Specifically, parliaments have two functions which make them valuable partners for promoting and protecting human rights. First, parliaments exercise scrutiny and oversight of the executive. In the UK, this is reflected in a fundamental tenet of the constitution – that of government accountability to Parliament – which requires ministers to explain and defend their actions.[13] David Feldman explains that this 'concentrate[s] the minds of ministers and their advisers

7 Preamble to HRC, 'Resolution 22/15 Adopted by the HRC: Contribution of Parliaments to the Work of the Human Rights Council and Its Universal Periodic Review' (2013) UN Doc A/HRC/22/15.

8 HRC, 'Resolution 26/29 Adopted by the HRC: Contribution of Parliaments to the Work of the Human Rights Council and Its Universal Periodic Review' (2014) UN Doc A/HRC/RES/26/29; HRC, 'Resolution 30/14 Adopted by the HRC: Contribution of Parliaments to the Work of the Human Rights Council and Its Universal Periodic Review' (2015) UN Doc A/HRC/RES/30/14.

9 The Principles can be found annexed to HRC, 'Report of the Office of the United Nations High Commissioner for Human Rights: Contribution of Parliaments to the Work of the Human Rights Council and Its Universal Periodic Review' (2018) UN Doc A/HRC/38/25.

10 ibid, para 1.

11 ibid.

12 ibid.

13 *R (on the application of Miller and another) v Secretary of State for Exiting the European Union* [2017] UKSC 5, [249].

on important but perhaps under-appreciated matters'.[14] Feldman goes on to suggest that it 'enhance[s] the transparency of governmental decision-making, thus strengthening representative democracy'.[15] Both parliamentary houses – the House of Commons and the House of Lords – work to question and scrutinize the Government through debates, question times and, most notably, select committees. These intra-parliamentary bodies examine particular government departments, policy areas or themes and are considered to 'strengthen the policy-making process inside and outside government by exposing decision-making to rigorous tests, and by encouraging more careful consideration of options'.[16] Several works have demonstrated how select committees, particularly the UK's JCHR, have contributed significantly to the scrutiny of government policy through a human rights lens.[17] The second function of parliaments that contributes to the protection of human rights is legislative deliberation and assent. International law often leaves states to determine the precise means of implementing obligations in domestic law. But in some cases, the state may need to adopt legislation (for example, to change existing law) or seek other approval of its legislature to be compliant with international law. For the UPR, according to the HRC, over 50 per cent of recommendations 'require or involve parliamentary action'.[18] Of course, this figure will depend on the recommendation, the state in question, and the specific functions of the parliament under its constitution. But this suffices to reveal that, without parliamentary approval, a state could not *fully* implement its UPR.

Looking specifically at the UK, a report by the Bingham Centre for the Rule of Law suggested that 'implementation of UPR recommendations often does not require legislation'.[19] Yet, a closer look at the recommendations

[14] David Feldman, 'Democracy, Law, and Human Rights: Politics as Challenge and Opportunity' in Murray Hunt, Hayley Hooper and Paul Yowell (eds), *Parliaments and Human Rights: Redressing the Democratic Deficit* (Hart Publishing 2017) 98.

[15] ibid.

[16] Meghan Benton and Meg Russell, 'Assessing the Impact of Parliamentary Oversight Committees: The Select Committees in the British House of Commons' (2013) 66 *Parliamentary Affairs* 772, 793.

[17] Paul Yowell, 'The Impact of the Joint Committee on Human Rights on Legislative Deliberation' in Murray Hunt, Hayley Hooper and Paul Yowell (eds), *Parliaments and Human Rights: Redressing the Democratic Deficit* (Hart Publishing 2017); Aileen Kavanagh, 'The Joint Committee on Human Rights: A Hybrid Breed of Constitutional Watchdog' in Murray Hunt, Hayley Hooper and Paul Yowell (eds), *Parliaments and Human Rights: Redressing the Democratic Deficit* (Hart Publishing 2017); Hourigan, Gask and Granger (n 1).

[18] HRC, 'Report on Parliaments and the UPR' (n 9) para 29.

[19] Bingham Centre for the Rule of Law, 'The Implementation of Human Rights Recommendations in the UK' (2023) 7 https://binghamcentre.biicl.org/projects/national-implementation-of-human-rights-global-survey-of-state-implementation-systems-and-processes accessed 1 August 2025.

that would typically require Parliament's assent suggests that legislation plays a more significant role. Three categories of recommendations would typically require Parliament's assent to be implemented. These are those that recommend: (1) the ratification of treaties;[20] (2) the incorporation of ratified treaties into domestic law;[21] and (3) the introduction, amendment or repeal of specific legislation.[22] Together, these recommendations, as set out in Table 6.1, account for 155 (21 per cent) of the UK's 737 received recommendations across UPR cycles 1–4. Of course, this will be an underestimation, as it only accounts for those recommendations that *necessitate* parliamentary action. In reality, legislation might be used to implement certain recommendations, even if this is not explicitly required from their wording.

It is plain, then, that parliaments – including the UK Parliament – have a critical role in facilitating the UPR's success. In carrying out these two functions – scrutiny and oversight, and legislative assent – Parliament can contribute to the implementation of UPR recommendations and the promotion and protection of rights in the state.

But, of course, there is a difference between what Parliament can (and should) do, and what it does in practice. Reflecting on Chapter 4, it is not unreasonable to expect that Parliament would engage with the UPR. The mechanism provides domestic actors, including Parliament, with various tools and opportunities to promote and protect human rights, notably by stimulating inter- and intra-actor dialogue and collaboration; and by providing human rights-related information and recommendations. Parliament may thus find value in engaging with the UPR to undertake its scrutiny and legislative functions. Yet, existing research suggests that, in practice, Parliament's engagement with the UPR has been limited. Arabella Lang claimed that the first UPR had 'passed Parliament by completely'.[23] Murray Hunt similarly explains how there was very little parliamentary activity around the UK's second review.[24] A survey of six

[20] Constitutional Reform and Governance Act 2010, s 20.

[21] As a dualist state, international treaties do not have effect in domestic law unless legislation to that effect is passed. See James Crawford, *Brownlie's Principles of Public International Law* (Oxford University Press 2012) 57.

[22] An exception is where a clause of the Act permits the Government, alone, to modify or alter the effect of legislation without Parliament's consent, also known as 'Henry VIII' clauses.

[23] Arabella Lang, *The UK's Universal Periodic Review by the UN Human Rights Council* (House of Commons Library Briefing Paper 7933, 2017).

[24] Murray Hunt, 'Enhancing Parliaments' Role in the Protection and Realisation of Human Rights' in Murray Hunt, Hayley Hooper and Paul Yowell (eds), *Parliaments and Human Rights: Redressing the Democratic Deficit* (Hart Publishing 2017) 477.

Table 6.1: UK recommendations requiring legislative action

Parliamentary function	No. and % of UPR recommendations			
	UPR 1	UPR 2	UPR 3	UPR 4
Ratification of treaties	3 (8.5%)	14 (10%)	35 (15%)	36 (11%)
Incorporation of treaties into domestic law	0 (0%)	1 (1%)	6 (3%)	5 (2%)
Adopting legislation or amending/ repealing existing legislation	3 (8.5%)	2 (1%)	19 (8%)	31 (9%)
Total	6 (17%)	17 (12%)	60 (26%)	72 (22%)

parliaments, including the UK's, show that the JCHR did not follow-up on the recommendations from the UPR, and Parliament as a whole did not consider the UK's UPR reports.[25] The Bingham Centre for the Rule of Law, also, suggests that 'there is no formal requirement or mechanism for involving Parliament and much is left to the initiative of individual Members of Parliament, though "they tend not to be very active on UN human rights recommendations"'.[26] Given the potential of the UPR to assist domestic actors, it is curious why we have not witnessed more active engagement. To that end, and building on these earlier findings, the forthcoming sections analyse Parliament's engagement with the UPR. This analysis draws upon a review of empirical evidence as found in existing research and documents on the UK Parliament's website and evidence from the UK Government Web Archive held by the National Archives. By examining when, how and why this engagement with the UPR occurs, this chapter fosters a greater understanding of the factors that contribute to and hinder the UPR's impact. We turn first to observe the activity of a central component of the legislative machine: the select committee.

The UPR and select committees

Select committees are inter-parliamentary bodies that scrutinize government across a range of policy areas or themes. Committees of the House of

[25] Brian Chang and Graeme Ramshaw, *Strengthening Parliamentary Capacity for the Protection and Realisation of Human Rights Synthesis Report* (Westminster Foundation for Democracy 2017) 20 https://www.wfd.org/sites/default/files/2022-05/research-wfd-strengthening-parliamentary-capacity-for-the-protection-and-realisation-of-human-rights-synthesis-report.pdf accessed 1 August 2025.

[26] Bingham Centre for the Rule of Law (n 19) 7.

Commons typically comprise twelve members of Parliament, including an elected chair, and mirror each government department, examining their spending, policies and administration. In the House of Lords, select committees may be permanent, thematic bodies scrutinizing specific subject areas, or special 'temporary' bodies investigating a particular issue. There are also three permanent joint committees,[27] comprising members of both houses. As alluded to earlier, select committees are central in enabling Parliament to carry out its scrutiny and legislative functions. Research by Meghan Benton and Meg Russell on the House of Commons committees found that 'committees strengthen the policy-making process inside and outside government by exposing decision-making to rigorous tests, and by encouraging more careful consideration of options'.[28] These findings, they claimed, 'are challenging not only to those in the UK who express doubt about the importance of the select committees, but also to comparative scholars of committee systems'.[29] A recent inquiry by the Liaison Committee on the 'effectiveness and influence' of select committees concluded along similar lines:

> [t]hey [select committees] have improved the quality of government by making ministers and officials more accountable for their actions and by requiring them to justify their decisions in public. Their success has, we believe, also put them at the centre of the conversation between the institution which is at the heart of our system of representative democracy and those whom it represents. They have improved the quality of that conversation immeasurably, but there is still room for wider and better engagement.[30]

The JCHR, Parliament's specialist human rights committee, is credited in particular for its effective scrutiny of the Government's human rights policy. Described as a 'hybrid breed of constitutional watchdog',[31] the JCHR has raised the stakes for governments wishing to pass rights-infringing legislation and increased the quality of rights-based debate in Parliament.[32] The UPR offers potentially valuable tools for select committees, particularly the

[27] As of June 2025, these are the Joint Committees on Human Rights, National Security Strategy, and Statutory Instruments.

[28] Benton and Russell (n 16) 793.

[29] ibid.

[30] Liaison Committee, *The Effectiveness and Influence of the Select Committee System* (2017–19, HC 1860) 105.

[31] Kavanagh, 'The Joint Committee on Human Rights' (n 17).

[32] See studies at n 17.

JCHR, to exercise their scrutiny functions, and engagement with these tools could facilitate the impact of the UPR and improvement of rights in the UK.

Despite this, only four committees were found to have referred to the UPR: the International Relations Committee, the Justice Committee, the JCHR, and the Foreign Affairs Committee (FAC). In the case of the International Relations Committee, the UPR was mentioned during an evidence session on the priorities for the new UN Secretary-General, but these were merely passing references.[33] Regarding the Justice Committee, the UK's UPR was referred to in four written evidence submissions[34] and two annual reports from the Ministry of Justice (MoJ) to the Committee on its UPR-related activities,[35] but the Committee itself has not referred explicitly to the UPR. Thus, for both committees, the UPR was foremost used to inform individuals' or organizations' evidence to committee inquiries. In this way, we see how the mechanism had empowered these organizations to further justify their human rights related claims before the two committees. Nevertheless, there being just a handful of references to the UPR since 2008 suggests that the engagement with the mechanism of these two committees has been limited. It is difficult to inquire further and to provide any explanations for their (lack of) engagement, given the limited data available. But a review of the two more active committees – the JCHR and FAC – does provide some important explanations for parliamentary engagement with the UPR. The activities of each committee can be examined in turn.

[33] International Relations Committee, 'Revised Transcript of Evidence, UK Priorities for the UN Secretary-General, Evidence Session No. 5' (2016) https://committees.parliament.uk/oralevidence/5991/html/ accessed 1 August 2025.

[34] Justice Committee, 'Written Evidence from the EHRC' (2015) https://committees.parliament.uk/writtenevidence/60113/html/ accessed 1 August 2025; Justice Committee, 'Written Evidence from Coram Children's Legal Centre' (2019) https://committees.parliament.uk/writtenevidence/105559/html/ accessed 1 August 2025; Justice Committee, 'Written evidence from the Children's Rights Alliance for England and the Youth Justice Legal Centre, part of Just for Kids Law' (2019) https://committees.parliament.uk/writtenevidence/105566/html/ accessed 1 August 2025; Justice Committee, 'Written evidence from the Policy Council of the States of Guernsey' (2013) https://committees.parliament.uk/writtenevidence/44528/pdf/ accessed 1 August 2025.

[35] Ministry of Justice, 'Memorandum on Main Estimate 2017–18' (2018) https://www.parliament.uk/globalassets/documents/commons-committees/Justice/estimates-memoranda/MOJ-Main-Estimate-Memorandum.pdf accessed 1 August 2025; Ministry of Justice, 'Annual Report and Accounts 2016–17' (2017) https://assets.publishing.service.gov.uk/media/5a81f871ed915d74e340108d/moj-annual-report-2016-17.pdf accessed 1 August 2025.

Joint Committee on Human Rights

Established in 1998, the JCHR is comprised of twelve members from across both parliamentary houses, one of whom sits as its chair.[36] It is supported by independent legal advisors (usually senior human rights academics or practitioners) and a small group of permanent staff who assist with a range of administrative tasks including drafting the Committee's reports. The Committee interrogates policy and bills before Parliament matters in light of: '[t]he rights under the European Convention on Human Rights (ECHR) protected in UK law by the Human Rights Act 1998; Common law fundamental rights and liberties; The human rights contained in other international obligations of the UK.'[37]

This is a wide mandate. Although the findings of international mechanisms such as the treaty bodies and the UPR are not specifically mentioned, the JCHR has clearly interpreted its remit widely so as to include, as we will see later, the UK's reviews by international human rights mechanisms. In terms of powers, the JCHR has the authority to call witnesses, request sight of documentary evidence, produce reports and, as alluded to earlier, appoint specialist advisors.[38] In these respects, the JCHR's remit and powers align completely with the Draft Principles. It is plain, then, that the JCHR is the most important body in Parliament in the context of the UPR. To take oral and written evidence on matters of human rights enables the JCHR to scrutinize government actors on their respective departments' approach to implementing the UPR. The presence of specialist advisers may also ensure that the Committee's members receive guidance on the area of law being investigated and the relevant international human rights standards. Research has shown how these advisers are considered a particularly important resource for the Committee, as they allow for issues that would otherwise pass by unnoticed (including, potentially, the UK's UPR recommendations) to be drawn to members' attention.[39] Being able to publish

[36] As of June 2025, the Committee's chair is Lord Alton of Liverpool (Crossbench Life Peer). Its other members are Juliet Campbell MP (Labour), The Rt Hon. the Lord Dholakia OBE DL (Liberal Democrat Life Peer), Tom Gordon MP (Liberal Democrat), The Baroness Kennedy of The Shaws LT KC (Labour Life Peer), Afzal Khan MP (Labour), The Baroness Lawrence of Clarendon OBE (Labour Life Peer), The Lord Murray of Blidworth (Conservative Life Peer), The Lord Sewell of Sanderstead CBE (Conservative Life Peer), Alex Sobel MP (Labour), Peter Swallow MP (Labour) and Rt Hon Sir Desmond Swayne MP (Conservative).

[37] UK Parliament, 'Human Rights (Joint Committee): Role' (2020) https://committees.parliament.uk/committee/93/human-rights-joint-committee/role accessed 1 August 2025.

[38] UK Parliament, 'Standing Orders of the House of Commons – Public Business' (2002) para 152B https://publications.parliament.uk/pa/cm200102/cmstords/27519.htm accessed 1 August 2025.

[39] Donald and Leach (n 4) 237.

reports is also a significant function in the context of the UPR. The JCHR does this following inquiries into government legislation which it deems to have human rights implications, and on policy areas or themes which it considers to be of particular interest. This reflects the good practices encompassed in the Draft Principles to 'review bills … to ensure compatibility with international human rights obligations', and 'lead the parliamentary oversight of the work of the Government in fulfilling its human rights obligations, as well as political commitments made in international and regional human rights mechanisms'.[40] As these reports require the Government to respond, they can be an effective means of holding departments to account, and could similarly be effective in the UPR process by reflecting on the implementation of recommendations. For instance, research has shown how these reports are discussed and used extensively by parliamentarians when passing legislation to propose amendments, reject provisions and repeal existing law.[41] In essence, this means that the Committee acts as an adviser to Parliament on human rights issues, and allows for parliamentarians to exercise their scrutiny role 'in a meaningful and effective way'.[42] By extension, reporting on the UPR should enable the Committee to spread awareness of the UK's UPR recommendations, and empower other parliamentarians to interrogate the Government effectively on their implementation during debates, question times and legislative proceedings. It is for these reasons that the JCHR has an invaluable role to play in ensuring the UK meets its UPR commitments.

Engagement with the UPR

The JCHR's engagement with the UPR has varied across the UK's four reviews to date but has, on the whole, increased since the first cycle. Following the UK's first UPR, the Committee had indicated its intention to engage with the process, considering that one of its of its 'main priorities' was scrutinizing 'the Government's reports to the monitoring bodies which oversee compliance with UN human rights instruments'.[43] Existing research has, however, suggested that this commitment did not translate into practice, with Arabella Lang claiming that the first UPR had 'passed Parliament by completely'.[44] Indeed, the extent of the JCHR's engagement was limited to referencing some UPR recommendations in its report. With regard to its scrutiny of bills, this happened on one occasion when it considered the

[40] Annex to HRC, 'Report on Parliaments and the UPR' (n 9) paras 2(b) and 2(c).
[41] Yowell (n 17) 144.
[42] Kavanagh, 'The Joint Committee on Human Rights' (n 17) 129.
[43] Joint Committee on Human Rights, *The Work of the Committee in 2007 and the State of Human Rights in the UK* (2007–08, HL 38, HC 270 2008) 33.
[44] Lang (n 23) 9.

Protection of Freedoms Bill 2011.[45] Here, UPR recommendations on the length of pre-trial detention for terrorist suspects were cited to support the Committee's argument that the duration proposed in the Bill (14 days) was too long.[46] Similarly, a report following the Committee's inquiry on children's rights in 2009 made reference to UPR recommendations on 'the high incarceration rate of children, children's privacy, the use of painful restraint techniques, the problem of violence against children and child poverty'.[47] This report was referenced in a parliamentary debate[48] and had received a government response.[49] Referencing the UK's recommendations in this way is an incidence of domestic mobilization. Here, the Committee is referring to these as an attempt to further legitimize and bolster its conclusions on the issues of pre-trial detention and youth detention. In this way, the Committee was contributing to the success of the UPR. But, while it is difficult to identify precisely the effect of this engagement, it is highly unlikely that merely referencing a handful of recommendations will have significantly influenced a change of policy in these areas, even if these reports were subsequently cited or responded to. Aside from this activity, there was otherwise a lack of engagement with the UPR by the JCHR. While the review did not quite pass it by *completely*, the irregular use of recommendations to inform its reports seems somewhat inconsistent with its commitment to prioritize the UK's engagement with the various international mechanisms.

For the UK's second UPR, as with the first cycle, the Committee again pledged to engage with the UPR in its work. Its chair at the time, Dr Hywel Francis (2010–2015), indicated that he and the Committee's Legal Adviser had attended a conference in Geneva on the role of parliaments in the UPR process (one of the various initiatives that led to the UN resolutions on the matter, alluded to earlier).[50] Following this, Dr Francis said that the Committee would be 'considering a variety of ways of involving itself more in scrutinising the Government's implementation of the UK's UPR recommendations'.[51] It was suggested that the Committee would be identifying 'the most significant themes'

[45] Joint Committee on Human Rights, *Legislative Scrutiny: Protection of Freedoms Bill* (2010–12, HL 195, HC 1490 2011).

[46] ibid 95.

[47] Joint Committee on Human Rights, *Children's Rights* (2008–09, HL 157, HC 318 2009).

[48] HL Deb 19 October 2009, vol 713, col 481.

[49] Joint Committee on Human Rights, *Children's Rights: Government Response to the Committee's Twenty–Fifth Report of Session 2008–09* (2009–10, HL 65, HC 400 2010).

[50] 'Letter from Dr Hywel Francis MP (Chair to the JCHR) to Hayley Richardson (UKAUK)' (4 March 2023) https://una.org.uk/sites/default/files/Joint%20Committee%20on%20Human%20Rights%20response%20to%20UNA-UK.pdf accessed 1 August 2025.

[51] ibid.

at the UK's UPRs and 'prioritising follow up work on those themes'.[52] This would be through correspondence with government ministers, parliamentary questions, initiating debates, alerting other select committees of relevant recommendations, pursuing amendments to bills, and integrating priority themes in the Committee's work programme.[53]

Compared with those made prior to the UK's first UPR, these commitments were much more specific and reflected the growing recognition of parliaments in the UPR process. Despite being five years before the Draft Principles would be adopted, the activities suggested by Dr Francis mirror many of its provisions. Thus, the Committee was well ahead in terms of recognizing the centrality of its role in the UPR process, especially as some of these proposals did come into fruition. Existing work by Lang[54] and Hunt,[55] for example, has already identified that the Committee had been in frequent contact with the minister responsible for the UPR, Lord McNally, and had received copies of the UK's second cycle national and mid-term reports. In relation to the latter, the JCHR had also attended (as an observer) the MoJ's UPR engagement events in March and September 2013, to discuss the UK's mid-term report.[56] Though its attendance as an observer would suggest that it did not contribute to the discussions at these events, this was nevertheless a significant development demonstrating the JCHR's direct involvement in the UPR follow-up process.

As with the previous UPR cycle, the Committee also continued to include some recommendations in its routine reporting, though this only happened on two occasions. In the 2013 report on 'Human Rights of Unaccompanied Children and Young People in the UK',[57] reference was made to a second cycle recommendation to '[i]ncorporate fully, as a matter of urgency, the principles and provisions of the [Convention on the Rights of the Child – CRC] into domestic law'.[58] Similarly, though no specific recommendations were referenced, the Committee explained that it was 'mindful' of a 'number

[52] ibid.

[53] ibid.

[54] Lang (n 23) 9.

[55] Hunt, 'Enhancing Parliament's Role' (n 24) 477.

[56] Ministry of Justice, 'UPR Events: Universal Periodic Review Engagement Events (Retrieved through the National Archives Government Web Archive)' https://webarchive.nationalarchives.gov.uk/ukgwa/20140205012858/http://www.justice.gov.uk/human-rights/universal-periodic-review/upr-events accessed 1 August 2025.

[57] Joint Committee on Human Rights, *Human Rights of Unaccompanied Children and Young People in the UK: First Report of Session 2013–14, Report, Together with Formal Minutes* (2013–14, HL 9, HC 196 2013).

[58] HRC, 'Report of the Working Group on the Universal Periodic Review: United Kingdom of Great Britain and Northern Ireland' (2012) UN Doc A/HRC/21/9 (UK Second Cycle Working Group Report) para 110.9.

of recommendations relating to children's rights issues' in its 2015 report on the 'UK's Compliance with the UN Convention on the Rights of the Child'.[59] Doing this, in part, would appear to reflect Dr Francis's commitment to 'integrate' the UPR into the Committee's work.

Another key development worth noting here is the establishment, by the Equality and Human Rights Commission, of the 'Treaty Monitoring Working Group' (TMWG), discussed in the previous chapter.[60] Though the content of these meetings is confidential, the Equality and Human Rights Commission (EHRC) suggests that they had 'enabled co-operation between the Commission and the JCHR' on issues surrounding the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the CRC.[61] The establishment of the TMWG is a positive development and reflects the good practice stipulated in the Belgrade Principles by enabling a dialogue between the UK's NHRIs and parliamentarians. While specific information on how the TMWG has contributed to the JCHR's work on the UPR is unavailable, the mere fact that this forum is available denotes a clear recognition, by both the ECHR and JCHR, that their collaboration is both important and necessary for the success of international instruments.

Compared with the lack of activity following the UK's first review, engagement from the Committee had thus increased from 2012. The dialogues broached by the JCHR with the Government and the ECHR on the UPR, and the more nuanced appreciation by the Committee's chair of the JCHR's role in the UPR process, are all notable developments that will have contributed to the potential success of the UPR in the UK. Nonetheless, many of Dr Francis's proposals did not come to fruition. In particular, the suggestions to involve Parliament more widely in the UPR – through debates, question times, and by communicating with other committees – did not materialize. As to be discussed later, mentions of the

[59] Joint Committee on Human Rights, *The UK's Compliance with the UN Convention on the Rights of the Child* (2014–15, HL 144, HC 1016 2015). The UK received 27 recommendations relating to children's rights for its second review, HRC, 'UK Second Cycle Working Group Report' (n 58) paras 110.4, 110.5, 110.6, 110.7, 110.8, 110.9, 110.10, 110.17, 110.34, 110.35, 110.38, 110.51, 110.69, 110.70, 110,71, 110.72, 110.74, 110.78, 110.79, 110.80, 110.87, 110.91, 110.94, 110.95, 110.96, 110.99 and 110.1.

[60] See Chapter 5, 'Intra- and inter-actor dialogue'.

[61] Equality and Human Rights Commission, 'Response of the Equality and Human Rights Commission to the Consultation: UPR: Note Verbale and Questionnaire on the Role of Parliaments' (2018) 7 https://www.equalityhumanrights.com/sites/default/files/consultation-response-ohchr-upr-role-of-parliaments-12-january-2018.pdf accessed 1 August 2025.

UK's UPR in Parliament are rare. Even where it is mentioned, these are largely peripheral mentions of the mechanism, and on only a few occasions have specific UK recommendations been referred to. It is also significant that, of these references, none were made by a member of the JCHR. This indicates that the Committee had little success in acting upon the suggestion of its chair to initiate debates or ask parliamentary questions on the UPR. Furthermore, as noted earlier, only four committees have to date referred to the UPR in their work, casting doubt on whether the JCHR succeeded in communicating with them on the UK's UPR. Thus, a key limitation of the JCHR's engagement between 2012 and 2017 is that it failed to generate dialogue with other parliamentarians and committees.

As for the UK's third UPR, in September 2016, eight months before the review, the JCHR's chair, then Harriet Harman MP QC (2015–2022), spoke at a British Institute for Human Rights event for the launch of its UPR stakeholder report.[62] Here, she said the Committee 'would be raising the issues explained [in the report] with the Justice Secretary' at its hearing the following month.[63] Though the hearing was instead attended by the Minister for Human Rights, Sir Oliver Heald QC MP, this was an excellent opportunity for questions on the UPR given that this minister would be heading the UK's delegation the following year. Despite this, the UPR was not explicitly discussed during this evidence session.[64] In early 2017, several key JCHR-led initiatives on the UPR were set to take place. Significantly, the Committee agreed to 'inquire into the UN Universal Periodic Review of the UK's human rights record'.[65] As part of this inquiry, plans were made for the JCHR to hold an evidence session to hear from various CSOs, the UK's NHRIs and Sir Oliver Heald,[66] and for the Committee to visit

[62] British Institute of Human Rights, 'Joint Civil Society Report to the United Nations Universal Periodic Review of the United Kingdom (3rd Cycle)' (2016) https://web.archive.org/web/20220119040043/https://www.bihr.org.uk/Handlers/Download.ashx?IDMF=899c9202-602e-4244-b776-52ddaf6e79d3 accessed 1 August 2025.

[63] Chris Curry, 'Human Rights Check UK – Turning the Lens Inwards' (2016) https://web.archive.org/web/20220626050109/https://www.bihr.org.uk/blog/human-rights-check-uk-turning-the-lens-inwards accessed 1 August 2025.

[64] Joint Committee on Human Rights, 'Oral Evidence: What Are the Human Rights Implications of Brexit? HC 695' (2016) http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/human-rights-committee/the-human-rights-implications-of-brexit/oral/44097.html accessed 1 August 2025.

[65] Joint Committee on Human Rights, 'Minutes of Proceedings Wednesday 8 February 2017' (2017) https://old.parliament.uk/documents/joint-committees/human-rights/2015-20-parliament/Formal_Minutes/Formal-Minutes-2016-17-Session.pdf accessed 1 August 2025.

[66] Joint Committee on Human Rights, 'UK's Record on Human Rights Considered before UNHRC Review' (31 March 2017) https://committees.parliament.uk/committee/93/human-rights-joint-committee/news/91572/uks-record-on-human-rights-considered-before-unhrc-review/ accessed 1 August 2025.

Geneva for the UK's UPR.[67] In keeping with the Committee's previous practice, Harriet Harman also requested sight of the UK's national report, and 'welcomed' the Government's commitment to 'increasing parliaments engagement with the UPR process'.[68]

The decision to hold a specific UPR inquiry was an especially significant step. Given the extensive use of the JCHR's reports to inform parliamentarians' work, this inquiry would have facilitated the rest of Parliament to scrutinize the UK's UPR. Furthermore, with the potential to receive a government reply, accountability to Parliament on the UPR, which had been absent from previous reviews, would have been facilitated. To travel to Geneva, too, would have been a promising step. It is set out in the Draft Principles that committees should 'participate in the UPR … either as part of the Government delegation or on its own'.[69] The OHCHR explains that this 'active and proactive engagement' with international mechanisms will 'greatly enhance' committees' 'promotion and protection of human rights at the national level'.[70] Nevertheless, Kirsten Roberts Lyer rightly identifies that there is 'little precedent' for states doing this and is a 'significant challenge' to the implementation of the draft principles'.[71] Given this, the Committee was attempting to lead the way, realizing the Draft Principles in practice, and setting an important example for other states' human rights committees.

However, owing to the calling of a general election and subsequent dissolution of Parliament in May 2017, the Committee were not able to hold its planned evidence session, nor is there evidence within the Liaison Committee's minutes to show funds were requested or granted for the visit to Geneva.[72] While, of course, this was an extraneous event of no fault of the Committee, it is disappointing that since Parliament and the Committee reconvened in 2017, to date there has been no further engagement with the UK's UPR. There was, for instance, no indication that the Committee

[67] Joint Committee on Human Rights, 'Minutes of Proceedings Wednesday 29 March 2017' (2017) https://old.parliament.uk/documents/joint-committees/human-rights/2015-20-parliament/Formal_Minutes/Formal-Minutes-2016-17-Session.pdf accessed 1 August 2025.

[68] 'Letter from Harriet Harman MP (Chair to the JCHR) to Sir Oliver Heald MP (Ministry of Justice)', dated 1 March 2017 https://www.parliament.uk/globalassets/documents/joint-committees/human-rights/correspondence/2016-17/170301_Chair_to_Sir_Oliver_Heald_QC_MP.pdf accessed 1 August 2025.

[69] Annex to HRC, 'Report on Parliaments and the UPR' (n 9) para 3(c).

[70] ibid 6.

[71] Roberts Lyer (n 2) 209.

[72] The Liaison Committee is comprised of select committee chairs and, among other functions, is responsible for 'allocating funding for select committee travel', see https://committees.parliament.uk/committee/103/liaison-committee-commons/role/ accessed 1 August 2025.

would be resuming its UPR inquiry or rescheduling the cancelled evidence session with the new minister then responsible for human rights, Philip Lee. Similarly, though four engagement events were held in 2018 by the UK Government, and one held by the Scottish Government in 2019, there is no evidence to suggest that the Committee were in attendance.

Regarding its reporting, the Committee responded to the OHCHR's 2018 study on parliaments by explaining that it 'refers in its legislative scrutiny work to the relevant treaty body and universal periodic review recommendations'.[73] To date, however, this has not happened since its aforementioned 2015 report on the CRC, meaning none of the UK's third or fourth cycle recommendations have been referenced in any of the Committee's reports. In total, therefore, UPR recommendations have only appeared in four of the JCHR's reports. The few recommendations that have been identified in these reports are also a small proportion of the UK's 737 recommendations received across its four reviews.[74] Moreover, there has still been no specific inquiry or report on any of the UK's UPRs, even though the Committee has previously held dedicated inquiries into the UK's implementation of UN treaties – the Convention Against Torture (CAT),[75] the Convention on the Rights of Persons with Disabilities (CRPD)[76] and, as noted earlier, the CRC.[77] The Committee's reports are, as explained earlier, one of the most effective tools at its disposal. But the absence of the UPR in the JCHR's reporting reveals a clear gap in its engagement with the mechanism.

Finally, with regard to the most recent fourth cycle, we do see that the JCHR's engagement with and interest in the UPR has increased primarily, it seems, as a result of stakeholder initiatives. As with the third cycle, the Minister for Human Rights, Lord Bellamy, shared with the JCHR the UK's national report and the Government's responses to the UK's recommendations.[78] The minutes of the Committee reveal that it 'considered' the UK's UPR in March 2023,[79] shortly after receiving the Government's

[73] Equality and Human Rights Commission, 'Response to Consultation on Parliaments' (n 61).

[74] See Chapter 3, 'Recommendations received'.

[75] Joint Committee on Human Rights, *The UN Convention Against Torture (UNCAT)* (2005–06, HL 185-I, HC 701-I 2006).

[76] Joint Committee on Human Rights, *The UN Convention on the Rights of Persons with Disabilities* (2008–09, HC 93, HL 9 2009).

[77] Joint Committee on Human Rights, *The UK's Compliance with the UN Convention on the Rights of the Child* (n 59).

[78] See 'Letter from Lord Bellamy', dated 4 April 2023 https://committees.parliament.uk/publications/39110/documents/192192/default/ accessed 1 August 2025.

[79] Joint Committee on Human Rights, 'Formal Minutes Session 2022–23' (2023) https://committees.parliament.uk/publications/43833/documents/223748/default/ accessed 1 August 2025.

responses, and held its first (private) evidence session on the UK's UPR in May 2023.[80] Shortly after, the Committee sought further information from the MoJ on its coordination of the UPR,[81] discussed in the previous chapter. Drawing on the information it had gathered in this period, the JCHR held a session with Lord Bellamy on the UPR in April 2024. Here, the Committee interrogated the Government's coordination of its response to the UPR, the lack of a human rights action plan, and the rationale behind accepting and noting recommendations.[82] The significance of this event is twofold. Foremost, it was the first time any Committee of Parliament had taken time to question the Government on the UPR, confirming that the Committee is receptive to and willing to engage with the mechanism. Second, the scrutiny of government required it to give a public account of its approach, which, until 2024, it had not done so in Parliament. To know that Parliament is now watching places pressure on the Government, when it subsequently engages with the UPR, to ensure its response is justifiable. Finally, the published record of evidence given by the Government has furthered transparency about how it approaches the UPR and enables further public scrutiny of the issue in the future.

We can see, then, that the JCHR has steadily increased its engagement with the UPR since the first cycle. It has moved from merely referring to recommendations in reports to more direct involvement with the UPR by inviting witnesses to give evidence on the mechanism and holding the Minister for Human Rights to account for the Government's approach. These activities demonstrate how the UPR can filter into the domestic sphere and influence the mobilization of parliaments. In theory, this domestic political pressure should have contributed, even if only slightly, to the promotion and protection of human rights in the UK. It is difficult, with this information alone, to quantify the precise impact of the UPR in this regard. We cannot say, for instance, whether the Committee's engagement led to a change in government policy on substantive rights issues. But what we can see is that the Committee's activity, prompted by the UPR, has brought about transparency on the Government's approach to the mechanism and required it to give an account of and explain that approach. These are not insignificant

[80] ibid. Note: the author was one of the participants at the session.

[81] Ministry of Justice, 'Process for International Obligations: Adverse Judgments from the ECtHR, UN Treaty Reporting and UPR' (2024) https://committees.parliament.uk/publications/41329/documents/203002/default/ accessed 1 August 2025. Also see Chapter 5, 'The executive's role vis-à-vis the UPR'.

[82] Joint Committee on Human Rights, 'Uncorrected Oral Evidence: The UK's Engagement with Its International Human Rights Obligations' (2024) https://committees.parliament.uk/oralevidence/14717/html/ accessed 1 August 2025.

contributions, which may, in time, come to affect positive, substantive changes to human rights in the UK.

Foreign Affairs Committee

The FAC is a House of Commons select committee that 'examines the expenditure, administration and policy of the Foreign, Commonwealth and Development Office (FCDO) and other bodies associated with the Foreign Office and within the Committee's remit, including the British Council'.[83] As discussed in the previous chapter, the FCDO promotes 'national interests and project[s] the UK as a force for good in the world',[84] and works 'to protect the most vulnerable from some of the most pressing global human rights issues'.[85] Of the four committees found to refer to the UPR in their work, the FAC appears to have been the most active since 2008. Foremost, the UPR features frequently in a number of the FAC's publications and evidence.[86] Throughout several of its country-specific publications, the FAC recommended the UPR as a mechanism for the Government to pursue its foreign policy goals. This was prevalent in a 2007 report on Japan and Korea, where the FAC referred to the UPR as a 'major opportunity to advance the international effort to secure improvements in North Korean human rights'.[87] It recommended that the Government use the UPR to, inter alia, raise the issue of the treatment of North Korean emigrants during China's UPR.[88] Similarly, in a report on Saudi Arabia and Bahrain, the Committee emphasized the importance of the UPR as an 'opportunity for the UK to make clear its concerns' on human rights.[89] The Committee suggested that the Government 'should encourage Saudi Arabia to engage constructively' with the UPR and the UN.[90] Similar comments

[83] UK Parliament, 'Foreign Affairs Committee' (2020) https://committees.parliament.uk/committee/78/foreign-affairs-committee/ accessed 1 August 2025.

[84] Foreign Commonwealth and Development Office, 'Human Rights and Democracy: The 2020 Foreign, Commonwealth and Development Office Report' (2021) https://www.gov.uk/government/publications/human-rights-and-democracy-report-2020/human-rights-and-democracy-2020-foreign-commonwealth-development-office-report accessed 1 August 2025.

[85] Foreign Commonwealth and Development Office, 'UK Elected to UN Human Rights Council for the Term 2021–23' (2020) https://www.gov.uk/government/news/uk-elected-to-un-human-rights-council-for-the-term-2021-23 accessed 1 August 2025.

[86] The term 'universal periodic review' appeared 275 times across 54 reports by the Committee since 2008.

[87] Foreign Affairs Committee, *Global Security: Japan and Korea* (2007–08, HC 449) para 178.

[88] ibid 209.

[89] Foreign Affairs Committee, *The UK's Relations with Saudi Arabia and Bahrain* (2013–14, HC 88) para 26.

[90] ibid 138.

are made throughout the various annual human rights reports published by the Committee between 2006 and 2017.[91] These aim to 'assesses the work of the Foreign and Commonwealth Office (FCO) and its diplomatic network in supporting human rights around the world'.[92] These noted the Government's work on other states' UPRs: for instance, the reviews of Russia[93] and Iraq.[94]

This data would imply that the FAC is both aware of the UPR and has been routinely using it to inform its scrutiny of government policy. By extension, a dialogue on the issue of the UPR is broached between Parliament and the Government, and awareness of the mechanism is spread among parliamentarians through its reports. Furthermore, by encouraging the Government to engage constructively with the process, and in suggesting where it might focus its efforts when making recommendations, the Committee is facilitating the UK's fulfilment of the UPR's objective to share best practice among states.[95] But, of course, this engagement from the FAC relates to *foreign* policy, and does not pertain to the UK's UPR, or the UK's human rights situation. This is particularly reflected by the fact that the FAC has not, at least expressly, referred to any of the UK's recommendations in its reports. Its specific impact upon the implementation of the UK's recommendations is, therefore, likely to be minimal.

It is particularly interesting that the FAC has been the most consistently active committee on the UPR because this seemingly mirrors the Government's own approach, as seen in the last chapter, off using the mechanism foremost to advance its foreign (rather than domestic) human rights goals. There are two plausible explanations for this. It may be that this close scrutiny by the FAC is what causes the Government to focus its efforts in this way. Or, alternatively, it may be that the Government's activity as a reviewing state at the UPR is what attracts the Committee's attention. It is not possible, on the data available, to conclude which of these explanations is most likely. Though, in any event, it can be said that the UPR has generated,

[91] Reports of this kind were known as 'Human Rights Annual Reports' until 2010, then as the 'FCO's Human Rights Work' until 2014, when they were discontinued. A further, similar report was published in 2018, but no more reports of this kind have been published since, see Foreign Affairs Committee, *Global Britain: Human Rights and the Rule of Law* (2017–19, HC 874).

[92] Foreign Affairs Committee, *The FCO's Human Rights Work in 2013* (2014–15, HC 551 2014) 10.

[93] Foreign Affairs Committee, *Foreign Affairs Committee Human Rights Annual Report 2007* (2008–09, HC 557) 91.

[94] Foreign Affairs Committee, *The FCO's Human Rights Work 2010–11* (2010–12, HC 964) 61.

[95] HRC, 'Resolution 5/1 Adopted by the Human Rights Council: Institution-Building of the United Nations Human Rights Council' (2007) UN Doc A/HRC/5/1, para 4(d).

or at least facilitated, an important dialogue between the Government and Parliament on human rights situations abroad, and provided both institutions with a means to achieve their respective policy goals. While this might not have any real impact on human rights domestically, it at least represents what might be possible if other committees, including the JCHR, were to place a greater focus on the UK's engagement as a state under review.

The UPR in parliamentary debate

So far, this chapter has investigated the engagement of parliamentary select committees with the UPR. These, particularly the JCHR, are likely the most effective channels that parliamentarians can use to drive the impact of the UPR. Nevertheless, during the legislative process and debates, parliamentarians could still have an impact on the content of legislation and policy. The following sections consider the extent that the UPR has been used as a means of supporting individual parliamentarians' calls for change during the legislative process and in debates.

The UPR in the legislative process

As outlined in the previous chapter, the development of policy and bills (proposed legislation) in the UK has traditionally been the main function of the Government and its Cabinet,[96] meaning that most legislation is already 'made' by the time it arrives in Parliament.[97] In this regard, Parliament is more accurately described as a policy-influencing body that deliberates and gives assent to legislation, rather than a policy-making one.[98] Nevertheless, Russell and Gover argue that, though scholars are typically sceptical of Parliament's influence over government legislation, in reality it 'exercises several distinct and complementary forms of power over government legislation'.[99] These

[96] Institute for Government and others, 'Policy Making in the Real World' (*Political Insight*, 2011) 4.

[97] The main exception is where non-government parliamentarians introduce bills (known as Private Member's Bills); however these make up only a tiny proportion of Parliament's output. They make up, on average, no more than 5 per cent of Acts assented each year, see Hansard Society, 'Private Members Bills' (2019) https://www.hansardsociety.org.uk/publications/guides/private-members-bills accessed 1 August 2025.

[98] As opposed to the other two types of legislatures – policy-making legislatures or those with little or no ability to affect policy. See Philip Norton, *Parliament in British Politics* (Red Globe Press 2005); Philip Norton, 'Old Institution, New Institutionalism? Parliament and Government in the UK' in Philip Norton (ed), *Parliaments and Governments in Western Europe* (Routledge 1998).

[99] Meg Russell and Daniel Gover, *Legislation at Westminster* (Oxford University Press 2017) 266.

are (1) visible changes through amendments; (2) anticipated reactions or generating fear; (3) the Government internalizing what Parliament will accept; (4) drawing public attention to policy issues and agenda setting; (5) accountability and exposure; and (6) counteractive pressure and support for the Government.[100] Some of these – particularly agenda setting and accountability and exposure – are key in the context of compliance with international human rights. Both mechanisms can be utilized as a means of drawing on UPR recommendations to legitimize and pursue legislative change. As identified at the start of this chapter, many of the UK's recommendations to date require parliamentary assent.[101] Therefore, it is central to the UPR's impact that these filter into and influence the work of Parliament when considering legislation. It is also worth reiterating why it is not unreasonable to expect that parliamentarians would do this: simply, the UPR is a tool which can provide members with leverage to legitimize their claims. Reliance upon one or more UPR recommendation may assist a parliamentarian to justify the inclusion of an amendment to a bill. It may even be that the specific language of the recommendation provides Parliament with the wording of such an amendment. Indeed, such has been seen in the UK with the findings of other UN mechanisms. Perhaps most notably is the successful amendment to the Northern Ireland (Executive Formation etc) Act 2019 which requires the Government to comply with the CEDAW Committee's recommendations following its 2018 inquiry into abortion in Northern Ireland.[102] Commenting on the significance of the inquiry, Jane Rooney explains that

> CEDAW provides a legal and normative framework that invites a broader range of stories to be told beyond the instances of prohibition of abortion where the pregnancy results from sexual violence or where a person has to carry a pregnancy to term in cases of FFA [fatal foetal abnormality] … [t]he CEDAW Inquiry Report provided a positive normative framework upon which to start a consultation about practical detail of regulations. The abortion reform process is a positive example of a multilevel iterative process for enhancing democratic

[100] ibid 267–272.

[101] See Table 6.1.

[102] Northern Ireland (Executive Formation etc) Act 2019, s 9 'Abortion etc: Implementation of CEDAW Recommendations'. The section requires that the Secretary of State 'must ensure that the recommendations in paragraphs 85 and 86 of the CEDAW report are implemented in respect of Northern Ireland'. See Committee on the Elimination of All Forms of Discrimination Against Women, 'Inquiry Concerning the United Kingdom of Great Britain and Northern Ireland under Article 8 of the Optional Protocol' (2018) UN Doc CEDAW/C/OP.8/GBR/2.

> legitimacy. Momentum was ignited by human rights litigation and the CEDAW report. It instigated an inclusive process of formulating a considered policy and legal response to criminalisation and lack of commissioning.[103]

The UPR, in the same way, facilitates a dialogue on human rights issues that may materialize in recommendations which can be usefully taken up by parliamentarians when exercising their legislative functions.

To identify if, when and how this has happened, searches were carried out for references to the UPR in Hansard, and in all documents relating to bills considered by Parliament since 2008.[104] Of course, this exercise could not capture those occasions where the UPR could have influenced legislation in other more subtle ways by, for instance, triggering 'anticipated reactions' or 'generating fear'.[105] Indeed, as Meg Russell and Philip Cowley explain, 'less visible influence is always likely to be the norm'.[106] Nevertheless, these insights do at least reveal where the UPR had been visibly informative. In this respect, it was found that UPR had been referenced during the legislative process (see Figure 6.1) of five bills since 2008: the Protection of Freedoms Bill 2011; the European Union (Definition of Treaties) (Columbia and Peru Trade Agreement) Order 2013; the Anti-social Behaviour, Crime and Policing Bill 2013; the Modern Slavery Bill 2014; and the European Union (Withdrawal) Bill 2018. Considering the nature and context of each of these references in turns provides some useful insight into the UPR's potential to inform legislative debate.

During the committee stage for the Protection of Freedoms Bill, a UPR recommendation accepted by the Government on the excessive length of pre-trial detention[107] was observed in written evidence given by the EHRC.[108] This was used to support their proposal that the power to detain

[103] Jane Rooney, 'International Human Rights Law, Devolution and Democratic Legitimacy: The Case Study of Abortion Reform in Northern Ireland' (2023) 74 *Northern Ireland Legal Quarterly* 28.

[104] As founds on Parliament's Bills website: https://bills.parliament.uk/ accessed 1 August 2025.

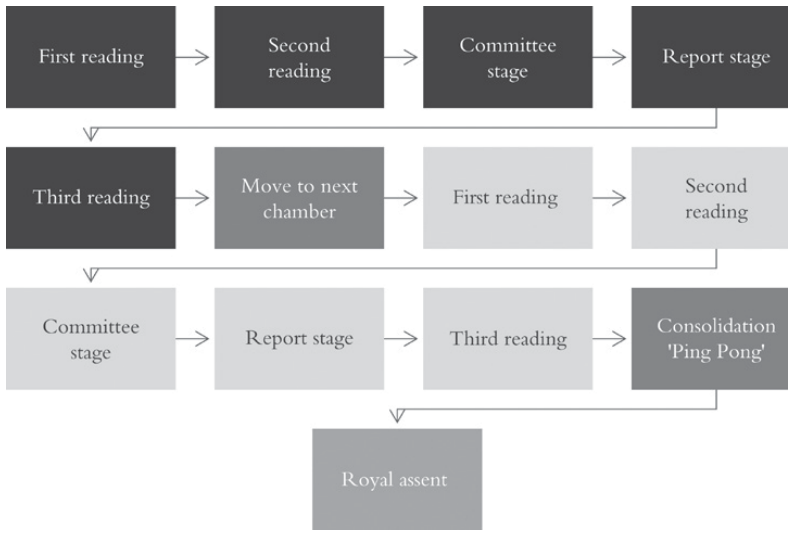
[105] Russell and Gover (n 99).

[106] Meg Russell and Philip Cowley, 'The Policy Power of the Westminster Parliament: The "Parliamentary State" and the Empirical Evidence' (2016) 29 *Governance* 121, 133.

[107] HRC, 'Report of the Working Group on the Universal Periodic Review: United Kingdom of Great Britain and Northern Ireland' (2008) UN Doc A/HRC/8/25 (UK First Cycle Working Group Report) paras 56.8–56.9.

[108] 'Memorandum submitted by Equality and Human Rights Commission' (2011) https://publications.parliament.uk/pa/cm201011/cmpublic/protection/memo/pf13.htm accessed 1 August 2025.

Figure 6.1: The legislative process in the UK Parliament



suspected terrorists for up to 14 days (reduced from 28 days under the Bill) be subject to annual review by Parliament. The reference during the passage of the European Union (Definition of Treaties) Order was to Peru's UPR to support the claim that human rights considerations had not been fully considered in the context of a trade agreement between the EU and Peru.[109] The reference during the passage of the Anti-social Behaviour Bill was within written evidence provided by StopWatch UK on the changes that the Bill sought to make to stop and search powers at UK borders. Here, StopWatch UK reflected upon comments made by several states during the UK's first UPR on the discriminatory effect of current stop and search powers under the Terrorism Act 2000.[110] During the second reading of the Modern Slavery Bill, Kerry McCarthy MP raised one of the UK's UPR recommendations to scrutinize the Government's failure to support the International Labour

[109] Lord Avebury, HL Deb 2 December 2013, vol 750, col 6.

[110] 'Written evidence from StopWatch UK (ASB 12)' (2013) https://publications.parliament.uk/pa/cm201314/cmpublic/antisocialbehaviour/memo/asb12.htm accessed 1 August 2025; HRC, 'UK First Cycle Working Group Report' (n 107) see, particularly, comments made by the Islamic Republic of Iran. Iran 'noted concerns expressed at the disproportionately high number of "stop and searches" carried out by police against members of ethnic or racial minorities, and the "profiling" in counter-terrorism efforts by the Government officials as well as the abuse of counter-terrorism laws which are perceived to target the Muslim population'.

Organization's Convention on Domestic Workers.[111] Finally, at the report stage of the European Union (Withdrawal) Bill in the House of Lords, Baroness Goldie highlighted the UPR as a means of ensuring compliance with the UK's international obligations concerning children.[112] This was to justify their rejection of an amendment which would have created an obligation on the Government to give 'due consideration' to the CRC when exercising powers following the UK's exit from the European Union.[113]

Though only a few examples of the UPR's use during legislative proceedings could be identified, some tentative observations can be made. First, it is plain that the UPR is not (at least visibly) used frequently to inform debates during the legislative process. Indeed, following the UK's first UPR in 2008, just a few mentions across the passage of five bills is arguably trivial when compared with the thousands of bills put to Parliament and the hours spent debating those bills. Of course, it is possible that the UPR has informed the legislative process in other more subtle ways. But the dearth of mentions in Hansard is at least suggestive of minimal engagement. Furthermore, on the two occasions when the UPR was raised as a means to justify a change or amendment to a bill, neither were successful. No requirement for the annual review of pre-charge detention powers was introduced following the EHRC's evidence to the Protection of Freedoms Bill. Changes suggested by StopWatch UK in relation to the Anti-social Behaviour Bill were, equally, not reflected in amendments. However, it is important not to draw any firm conclusions from these incidents, not least because these are just two examples. At best, they show how civil society can use the UPR to inform their submissions for the bill committees, but they reveal little about the UPR's relative weight or utility in supporting amendments. The reference to the UPR during the debate on the European Union (Withdrawal) Bill is interesting, though, as it was used to deny (rather than support) what would have been a human rights-advancing amendment. Similarly, as an isolated event, we cannot infer too much from this, though it is a reminder that engagement with the UPR (indeed, with any international human rights law or mechanism) may not always be with the view of enhancing human rights protection.

In sum, and notwithstanding the possibility that the UPR had less visible influence, this exercise reveals very isolated and largely unremarkable instances of engagement with the mechanism during the passage of legislation. At best, it is a starting point to understand the potential for the UPR to inform legislative debate. Before turning to examine the factors

[111] Kerry McCarthy MP, HC Deb 08 July 2014, vol 584, col 225.
[112] Baroness Goldie, HL Deb 30 April 2018, vol 790, col 1942.
[113] The text of the amendment can be found ibid at col 1934.

that affect parliamentary engagement with the UPR, we turn to consider the mechanism's impact on debates outside of the legislative process.

The UPR in non-legislative debate and question times

When it is not considering legislation, Parliament serves as a forum for more general debates that allow MPs or peers to speak on various issues. These may relate to government policy, proposed laws or a particular theme, and are usually chaired by the Speaker who ensures that discussions take place in accordance with parliamentary rules. The flexibility of debates can make them particularly effective at holding the Government to account as questions may require an array of policies to be defended in a public forum. Parliamentary question times, unlike general debates, allow for questions to be put before individual government ministers on their departments' policies and administration. The most notable example of this is 'Prime Minister's Questions' (PMQs), a popular, widely broadcast sitting involving the scrutiny of the Prime Minister from across the Commons. Across Hansard and Parliament's Written Questions database, there are hundreds of references to the UPR.[114] The nature of these references reveals a number of insights into the engagement with the UPR during debates and question times.

It was notable that only a small number of these references – 16 – concerned the UK's UPR. The majority of these were found as part of written/oral answers to questions. Questions to the Government concerned the Home Office's discussions with the MoJ in preparation for the UK's review;[115] the MoJ's approach to consultation for the UK's national report;[116] who would be leading the UK's delegation;[117] and when the UK's national report would be submitted.[118] One minister also referred to the UK's UPR recommendations to answer a question on the Government's plans to sign the International Convention for the Protection of all Persons from

[114] Hansard finds 165 references to 'universal periodic review', and there are 472 references on the 'written questions, answers and statements' database https://questions-statements.parliament.uk/ accessed 1 August 2025.

[115] John Bercow MP, HC Deb 18 November 2008, vol 483, col 322WA.

[116] Margaret Ritchie MP, Written Question submitted 19 February 2016 (UIN 27335) available at https://questions-statements.parliament.uk/written-questions/detail/2016-02-19/27335 accessed 1 August 2025.

[117] Ann Clwyd MP, Written Question submitted 9 February 2017 (UIN 63905) available at https://questions-statements.parliament.uk/written-questions/detail/2017-02-09/63905 accessed 1 August 2025.

[118] Matthew Pennycook MP, Written Question submitted 24 February 2017 (UIN 65541) https://questions-statements.parliament.uk/written-questions/detail/2017-02-24/65541 accessed 1 August 2025.

Enforced Disappearance.[119] Only one question/answer, however, related specifically to the UK's recommendations. Here, the MoJ was asked about the progress made implementing recommendations on children's rights and child poverty, to which the minister responded by promising to provide an update in the UK's mid-term UPR report.[120] Regarding debates, on one occasion, the UK's approach to its first review was praised.[121] On three occasions, all in the House of Lords, there were critical comments on the UK's poor recommendation acceptance rate for its third review: two Lords, during a debate on 'Brexit and human rights' in 2017, noted 'concern' over this, and claimed that the 'UK's status as a human rights leader is at risk';[122] and another in 2019 identified that 'the Government supported only 28% of the recommendations regarding children's rights and mental health'.[123] It can be seen, then, that outside of select committees the UK's UPR has received minimal attention from parliamentarians. Instances are engagement are isolated, often passing, and not always with the intention of holding the Government to account. There has also been no debate to focus specifically on the UK's reviews.

All other references identified concerned the UPRs of other countries. Parliamentarians frequently refer to the UPR to ask the Government, in debates and in question times, how they plan to approach the review of other states – what questions they might ask, which human rights issues will be focused upon, and what recommendations might be made. This can be identified on a number of occasions in relation to the UPRs of Syria,[124] Columbia[125] and Saudi Arabia.[126] Similarly, many ask the Government, without explicit reference to the UPR, how it is approaching human rights issues in other states. Ministers then regularly point to the Government's engagement with the UPR as evidence of its foreign policy work. For instance, in 2008, when asked how the FCO was encouraging the Indonesian Government 'to prevent violence directed at the Ahmadiyya

[119] Simon Hughes MP, Written Question submitted 5 December 2014 (UIN 217523) available at https://questions-statements.parliament.uk/written-questions/detail/2014-12-05/217523 accessed 1 August 2025.

[120] Richard Burgon MP, Written Question submitted 30 October 2018 (UIN 185684) available at https://questions-statements.parliament.uk/written-questions/detail/2018-10-30/185684 accessed 1 August 2025.

[121] Jo Swinson MP, HC Deb 13 October 2008, vol 480, col 590.

[122] Lord Cashman, HL Deb 12 December 2017, vol 787, col 1525. Baroness Warsi, ibid at col 1533.

[123] Lord Haskel, HL Deb 16 May 2019, vol 797, col 1684.

[124] John Bercow MP, HC Deb 14 May 2008, vol 475, col 1599WA.

[125] William Hague MP, HC Deb 23 April 2013, vol 561, col 751.

[126] Hugh Robertson MP, HC Deb 24 June 2014, vol 583, col 21WH.

Muslim community', a minister pointed to the concerns raised by the UK at Indonesia's UPR.[127] Comparable examples also relate to Peru and alleged discrimination against vulnerable groups,[128] as well as the de facto moratorium on the death penalty in India.[129] Specific UPR recommendations have also been mentioned on a range of occasions to relay human rights concerns in various states, and identify where governments were failing to implement these. Examples of this can be seen during debates on Iran,[130] Pakistan[131] and Togo.[132]

That actors are more frequently engaging with other states' UPRs, rather than the UK's, is a recurring observation. We saw this earlier in this chapter, with respect to the FAC, and in the previous chapter with the Government's use of the UPR to inform its foreign policy. Evidently, then, the UPR is perceived as a particularly useful tool for informing foreign affairs policy and parliamentary scrutiny of other state's human rights situations. This, in part, furthers the conclusion that the mechanism can meaningfully influence and empower domestic actors to further the promotion and protection of human rights. It is not possible to quantify the precise impact the mechanism will have had in this respect, though it is likely that such is limited to the state's law and practice as it concerns human rights abroad. It is doubtful, though, given the limited focus on the UK's own UPR, whether the same can be said for domestic human rights.

Factors affecting parliamentary engagement

We can see, thus far, that with the exception of the emerging practice of the JCHR, engagement with the UPR has been more focused on that of other states than on the UK's.

Thus, while the mechanism is evidently filtering into the work of Parliament and influencing its work to inform the scrutiny of government policy and legislation, this appears to do so only in certain circumstances. Given that, it is pertinent to ask why: what factors affect parliamentarians' engagement with the UPR? This inquiry can help us better understand the UPR's potential and limitations as a catalyst for domestic mobilization and help identify means to enhance parliaments' engagement with the UPR. Four factors appear particularly relevant: (1) awareness of and familiarity with the

[127] Meg Munn MP, HC Deb 5 June 2008, vol 476, col 1098WA.
[128] Chris Bryant MP, HC Deb 2 February 2010, vol 505, col 241WA.
[129] Alistair Burt MP, HC Deb 17 July 2012, vol 548, col 904.
[130] Mary Glindon MP, HC Deb 1 March 2018, vol 636, col 422WH.
[131] Jim Shannon, ibid 423WH.
[132] Teresa Pearce, HC Deb 08 January 2019, vol 652, col 70WH.

UPR; (2) indifference or hostility toward the UPR; (3) the consequences of centralizing human rights scrutiny; and (4) the constitutional norms governing the state's parliament.

Awareness of and familiarity with the UPR

Existing research reveals the availability of information is a key limitation of parliamentary engagement with human rights. Cosette Creamer and Beth Simmons, considering the impact of the UN's treaty monitoring system, note that 'to be meaningful domestically, there must be some public awareness of the existence of review and the issues it entails'.[133] Carolyn and Simon Evans, on the Australian Parliament, observed poor understanding of human rights issues among its members: they appeared unfamiliar both with identifying human rights-related concerns and evaluating policy in light of these.[134] Donald and Leach's case studies on various parliaments, similarly, highlighted the lack of human rights training available.[135]

In the case of select committees, it is plausible that awareness of and familiarity with the UPR is a key factor that affects engagement. This is perhaps most readily demonstrated by the JCHR's steady increase in activity for the fourth cycle as a result of civil society and stakeholder initiatives seeking to bring the UPR to the Committee's attention. Yet, for the JCHR, it is doubtful whether awareness of the UPR can fully explain its engagement to date. At least since the second UPR cycle, Committee members and staff have been developing their expertise. As noted earlier, the Committee's chairs had participated in external events and two of the Committee's former legal advisers – Angela Patrick (2006–2011) and Murray Hunt (2004–2017) – are known to have specific knowledge of the UK's UPRs. Patrick had previously developed a handbook which specifically provides guidance on how parliamentarians can engage with their states' UPRs.[136] Hunt, as cited throughout this chapter, is one of few authors to have already pointed to the lack of participation from Parliament in the

[133] Cosette D Creamer and Beth A Simmons, 'The Dynamic Impact of Periodic Review on Women's Rights' (2018) 81 *Law and Contemporary Problems* 31, 57.

[134] Carolyn Evans and Simon Evans, 'Messages from the Front Line: Parliamentarians' Perspectives on Rights Protection' in Tom Campbell, KD Ewing and Adam Tomkins (eds), *The Legal Protection of Human Rights: Sceptical Essays* (Oxford University Press 2011).

[135] Donald and Leach (n 4).

[136] The Westminster Consortium and International Bar Association, 'Human Rights and Parliaments: Handbook for Members and Staff' (2011) https://www.law.ox.ac.uk/sites/default/files/migrated/human_rights_and_parliaments_handbook.pdf accessed 1 August 2025.

UPR process. The EHRC has also provided training for the Committee on their Human Rights Tracker.[137] For other committees, however (the vast majority of which have not seemingly engaged with the mechanism), awareness has probably played a greater role. Unlike the JCHR, which has access to specialist human rights advice and research, other committees may simply not have this information at their disposal.[138] Yet, even for these other committees, knowledge and awareness is not the only factor in play. Even when committees have been provided with relevant information on the UPR, this has not always led to further engagement. For instance, in relation to the Justice Committee's inquiry into courts and tribunals fees, highlighted earlier, the evidence provided to the Committee included references to the UPR as well as information on other human rights considerations (for example, the right of access to a fair trial under the ECHR).[139] However, the published report, while mentioning 'access to justice', did not explicitly consider human rights implications *at all*, and instead focused on assessing the proposed changes to court and tribunal fees through other lenses, such as their economic impact. It is highly doubtful that the Justice Committee simply ignored the human rights implications altogether; rather, it had chosen to look at the issue in a particular way. It is plausible that the Justice Committee felt it best that the human rights implications were interrogated by the JCHR.[140]

Outside of committees, it is likely that awareness of the UPR may play a larger role. Most notably, in advance of the 'Brexit and Human Rights' debate in 2017, during which two Lords referred to the UPR in their submissions,[141] a briefing was prepared by the EHRC for parliamentarians which drew attention to the outcome of the UK's third review earlier in the year.[142] The briefing suggested to members that the debate was an

[137] Equality and Human Rights Commission, 'Annual Report and Accounts: 1 April 2021 to 31 March 2022' (2022) 17 https://www.equalityhumanrights.com/sites/default/files/2022/EHRC-annual-report-accounts-2021-22.pdf accessed 1 August 2025.

[138] Though there is no figure for which committees have access to specialized legal advice, Donald and Leach claim that the JCHR is 'one of a small number committees' that do, see Donald and Leach (n 4) 237.

[139] The issue of article 6 was raised by 8 of the 91 witnesses to the inquiry, see evidence provided by the Equality and Human Rights Commission, UNISON, TUC, Simpson Millar LLP, Prison Reform Trust, Vera Baird QC, Immigration Law Practitioners' Association, and GMB: Justice Committee, *Courts and Tribunals Fees* (2016–17, HC 167) 44–46.

[140] See this chapter, 'The consequences of centralized human rights scrutiny'.

[141] See n 122.

[142] EHRC, 'The Government's Human Rights Priorities in Light of Brexit' (2017) https://www.equalityhumanrights.com/sites/default/files/parliamentary-briefing-question-for-short-debate-brexit-human-rights.pdf accessed 1 August 2025.

opportunity to 'scrutinise the Government's human rights record – in particular the recommendations of the Universal Periodic Review', which had been received earlier that year.[143] It highlighted the UK's lower-than average acceptance rate, discussed in Chapter 3, and drew attention to three human rights themes that featured during the UK's third review, along with the relevant recommendations on children's rights, racial equality and women's rights. Given the similarity in content of the briefing and the submissions of the two members in this debate, it is likely that the briefing was key in bringing the UPR to the forefront of the debate. Clearly, its provision had succeeded in better engaging parliamentarians with the UPR process, and suggests that, when information is provided to members, their mobilization is more likely.

Indifference or hostility toward the UPR

Another relevant factor is likely to be parliamentarians' perception of the UPR as a valuable tool to be deployed in their work. There is evidence to suggest that some parliamentarians may be indifferent or even hostile toward the UPR. Indifference may be present, as parliamentarians feel that engagement with the UPR through, for instance, relying on it to inform an amendment to a bill would not actually be beneficial. Indeed, it has been found that a purported driver of domestic mobilization is the likelihood that individuals believe that their calls for change are likely to be successful.[144] Parliamentarians have particular incentives and goals as domestic political actors, notably the desire to satisfy the electorate. As David Feldman observes, politicians, as individuals wishing to pursue change, will strive to 'introduce programmes that aim to deal directly with an identified problem' – such is 'more satisfying and more likely to gain the support of constituents'.[145] Equally, those wishing to scrutinize government policy in committees may wish to focus on specific issues or problems. Feldman argues, however, that while human rights can improve society, this is often in 'fairly diffuse and often unquantifiable way[s]'.[146] By extension, parliamentarians may simply not see value in engagement with the UPR, as this may not be an exercise likely to result in the sorts of benefits that parliamentarians perceive to be beneficial or politically satisfying. This may especially be the case in the UPR context because, as observed in Chapter 3, the UK receives largely

[143] ibid 3.

[144] Beth Simmons, *Mobilising for Human Rights: International Law in Domestic Politics* (Cambridge University Press 2009) 136.

[145] Feldman (n 14) 96.

[146] ibid.

unspecific recommendations.[147] As a result, even if parliamentarians were familiar with these recommendations, it is questionable whether any of them would be considered specific enough, useful or relevant to the concerns being raised in Parliament.

It is also important to recognize potential scepticism or hostility toward the UPR. Notably, following the UK's second UPR in 2012, parliamentarians were reported to have denounced the review process because of double standards.[148] One member suggested that the review was 'actually so ridiculous it's laughable. It is like being lectured by Attila the Hun on the peaceful co-existence of nations. All we need now is Syria to criticise us on our human rights record and the joke would be complete'.[149] Another said the process was 'turning the UN into a complete joke'.[150] These comments, of course, miss the point that the process is purposefully designed to be universal and non-selective, though they nevertheless reveal scepticism about the legitimacy of the UPR and its recommendations. We do not, of course, know how prevalent such views are in Parliament. But these instances serve to demonstrate the hesitancy among politicians to accept the very premise of peer review. These views are, in fact, *engagement* with the mechanism by parliamentarians, but clearly such engagement is not beneficial for the UPR nor, arguably, for the promotion and protection of human rights in the UK. Rather, the occurrence of the UK's review empowered these parliamentarians not to further seek improvements in human rights but to actually denounce the human rights framework. This is an insight that international human rights and mechanisms such as the UPR can and do empower domestic actors, but this will not always be to rights-beneficial ends.

The consequences of centralized human rights scrutiny

The third factor to be discussed is of a structural, institutional nature, namely the approach by which Parliament has chosen to undertake human rights-based scrutiny. It is a pertinent debate in the scholarly discourse, as we saw in the previous chapter, as to whether it is more beneficial to have specialist 'designated' institutions responsible for human rights and/

[147] The UK received 69, 65 and 60 per cent non-action category 5 (specific) recommendations at its first, second and third reviews, respectively. See Chapter 3, 'Recommendations received'.

[148] Jack Doyle, 'How Dare They! Britain Condemned on Human Rights in UN Report … by Iran, Russia and Cuba' *Daily Mail* (9 June 2012) https://www.dailymail.co.uk/news/article-2156687/UN-human-rights-report-criticised-containing-condemnations-Britain--Iran-Russia-Cuba.html#comments accessed 1 August 2025.

[149] ibid.

[150] ibid.

or to have all existing institutions be equally responsible for ensuring human rights are considered in their work (also known as mainstreaming). Importantly, these approaches are not mutually exclusive: for instance, a specialized human rights committee can be a vehicle for mainstreaming human rights issues across the legislature. Equally, the Draft Principles on Parliaments and Human Rights, while advocating for the creation of a specialist human rights committee, recognizes the importance of human rights committees engaging in information sharing, training and awareness raising *across* parliament. As we have seen, the UK has adopted a specialized approach by creating a designated human rights committee in the JCHR, and that body is clearly active and influential in enabling Parliament more widely to engage with human rights issues. It is important to query, though, whether this approach, combined with the JCHR's lack of engagement with the UPR (at least until recently), has contributed to a Parliament that is mostly inactive with respect to the UK's reviews. These circumstances are likely to have had two related effects. Foremost, the very existence of the JCHR may give the impression to other committees that human rights issues, including the UPR, are not within their remit. As Alice Donald and Philip Leach suggest: '[C]oncentrating human rights scrutiny and expertise within a specialized body creates the concomitant risk of discouraging the integration of human rights and related rule of law issues across the entire range of a parliament's functions and structures.'[151] Equally, Murray Hunt, reflecting on the JCHR's work, has observed that 'the danger of having a specialised human rights committee, especially a very good one, is that the rest of your parliament leaves it to you to do everything on human rights'.[152] This could be what is being observed in the UK with the UPR process – other committees (if they are aware of the UPR) may feel that the JCHR is simply better placed to engage with the process. Relatedly, as the JCHR has not historically scrutinized or reported on the UPR, Parliament more widely lacks the relevant expert insight that the Committee readily provides on other human rights matters. If either of these situations arise, then this does expose a potential weakness in the 'specialized' model whereby until a human rights committee turns its attention to the UPR, Parliament more widely may remain inactive.

If it is the case that a great deal rests on the shoulders of the specialized committee, then it is clear that it must have the requisite resources and capacity. This is reflected in the Draft Principles on Parliaments and Human

[151] Donald and Leach (n 4) 86.

[152] Joint Committee on Human Rights, 'Oral Evidence given by Murray Hunt: Parliament and Human Rights' (2022) https://committees.parliament.uk/oralevidence/10560/html/ accessed 1 August 2025.

Rights. Yet, this is an ideal that could doubtfully be realized, as some issues of capacity are simply beyond the control of Parliament. Most obvious is the matter of time. The JCHR already scrutinizes every government bill for compliance with human rights and conducts thematic inquiries, which it must do in a timely manner and within the parliamentary calendar. Murray Hunt explains that '[w]ith the best will in the world … and even if resources were infinite, there is a natural limit to what can be achieved by a single committee of just 12 members'.[153] Expecting a single committee, even one that is appropriately resourced, to capably and meaningfully respond to and engage with all international human rights mechanisms is a momentous task. Indeed, the resource-intensive nature of this work was precisely why the JCHR's engagement with UN treaty body reviews became more 'sporadic and reactive'.[154] In this respect, we might reasonably ask whether the Draft Principles on Parliament and Human Rights simply expect too much of human rights committees. In the end, human rights committees, including the JCHR, must prioritize, and so it is reasonable to understand why the UPR may take a back seat.

The role of constitutional norms

Finally, it is pertinent to recognize that some forms of engagement that the UN and the HRC are beginning to expect from parliaments, as set out in the various resolutions and the Draft Principles on Parliaments and Human Rights, may simply be 'unconstitutional' in a given state. More specifically, a state's conventions and norms governing the parliament may place certain activities off limits or reserve them for other branches of the state, usually the executive. This could plausibly explain why the JCHR (or any committee for that matter) has not attended the UPR working group as part of the government delegation.[155] Attendance at international forums, like the UPR working group, has traditionally been the responsibility of the UK Government by virtue of its prerogative power. In evidence submitted to a select committee inquiry into Parliament's scrutiny of international agreements, David Rutley MP, a minister of the FCDO, explained:

> [prerogative powers] derive from powers that historically came from the Crown, but over the years their exercise has gradually passed to

[153] Murray Hunt, 'The Joint Committee on Human Rights' in Dawn Oliver, Gavin Drewry and Alexander Horne (eds), *Parliament and the Law* (Hart Publishing 2013) 247.

[154] ibid.

[155] Draft Principles on Parliaments and Human Rights, para 3(c), found at the annex to HRC, 'Report on Parliaments and the UPR' (n 9).

> the Government. This is simply the exercise of Executive power as we know it. It is entirely standard practice across the world that, in the areas of international relations and treaty making, these powers vest in the Executive branch of Government. That ensures we have one single voice at the international level and are able to respond flexibly and effectively to developments in what is a fast-changing world, and we have seen that particularly over the last few years.

For a parliamentary committee to attend the UK's UPR, either independently or alongside the Government, would be novel and certainly unconventional. Depending on what such an attendance would entail, it may be difficult to reconcile this with Parliament's traditional functions and the Government's primacy over international affairs. That being said, Parliament's role with respect to the UK's international relations has developed significantly in recent decades, such that it would not be completely unforeseeable that representatives of the JCHR, or any other committee, might in the future attend the UK's reviews by international mechanisms.[156] Eleanor Hourigan, Alex Gask and Samantha Granger, all former and/or current staff of the JCHR, suggest that attendance at the UPR session 'is something [the Committee] could consider in the future as a means of increasing parliamentary engagement with the UPR process, giving greater visibility within Parliament to the UK's international commitments, and increasing pressure on the government to give proper consideration to the implementation of the UPR's recommendations'.[157]

Conclusion

This case study has enabled us to think more critically about parliaments' functions, what we can reasonably expect from them when engaging with the UPR, and what barriers parliaments may face in this regard. Certainly, looking at the UK Parliament, we can see the potential for the UPR to filter into its work, foremost through the JCHR, and inform the scrutiny of government and the passage of legislation. Yet, in practice we see the sites of engagement in Parliament are highly concentrated in the JCHR and, even then, the Committee has only recently turned its attention to the UPR.

[156] Most notable is Parliament's increasing role with respect to treaty-making, see Leigh Gibson, 'Treaty-making and Parliamentary Scrutiny: Recent Developments' (House of Commons Library 2024) https://researchbriefings.files.parliament.uk/documents/CBP-10116/CBP-10116.pdf accessed 1 August 2025. On the growing practice of parliaments globally to engage in diplomacy, see Volume 11 of the *Hague Journal of Diplomacy* and its special issue 'Parliamentary Diplomacy Uncovered: European and Global Perspectives'.

[157] Hourigan, Gask and Granger (n 1).

It is, of course, not surprising that the designated human rights committee has been most interested in the UPR, but the absence of engagement elsewhere in Parliament is notable. These findings do raise doubts about the mechanism's potential as a catalyst for domestic mobilization. Clearly, the UPR's success in this respect is contingent on parliamentarians' knowledge and understanding of the mechanism, their receptivity to the process and its recommendations, their capacity, and their traditional constitutional functions. These are unlikely to be the only relevant factors, but they do appear the most pertinent, at least in the UK. Beyond these empirical observations, this chapter has revealed further the benefits of looking within the state to see how and why the UPR permeates domestic affairs. Once again, if we were to focus wholly on the state's (UK's) engagement with the process in Geneva, we would lose sight of the UPR's other areas of influence, in this case in Parliament.

There are some pertinent policy implications that follow from this analysis. It is clear that in order to secure greater engagement by parliaments, there needs to be ongoing capacity building both to build familiarity with the UPR but also to address scepticism of the mechanism. In this respect, we must remember that parliaments are not static institutions but will instead change as elections occur. Building institutional memory is therefore central to ensure that parliaments remain consistently able to engage with the UPR. This means working not just with members of parliament (MPs) but with the permanent staff to establish resilience. NHRIs will be key in this respect. For the same reasons, there may be a need to revisit the various international standards on parliaments. The UN, in its resolutions and in the Draft Principles on Parliaments and Human Rights, assume that parliamentarians have the capacity and desire to engage with the UPR and the range of other international human rights processes. As we have seen, that may not always be the case. Rather than assuming the receptivity of parliaments, it may be wise to start with the presumption that parliaments are complex, political institutions with members that may not necessarily see the benefit of mechanisms like the UPR. Future UN resolutions should acknowledge the inherent challenges involved in enhancing parliamentary engagement, as well as the need to foster favourable conditions so that parliaments can more readily be involved in the UPR process. The UN may therefore need to alter its strategy for enhancing parliamentary engagement by better promoting international human rights as a tool for parliamentarians to pursue their respective interests and help them appreciate how and why human rights and the UPR can be useful to them. Relatedly, it will be pertinent to think carefully about the role of specialized human rights committees as envisioned in the Draft Principles on Parliaments and Human Rights. The UK's experience suggests that even the most well-equipped and best-intentioned committees can face difficulties engaging with the UPR.

Looking more at how specialist committees can work *with* parliamentarians, rather than *for* them, is necessary so that human rights matters are not simply 'left' for these committees to address. Finally, this chapter provides some food for thought about the future of the UPR and how states and stakeholders can make best use of the mechanism. If we are to expect parliamentarians to make use of the UPR, then it is incumbent upon states to think more carefully about how they formulate their recommendations so as to appeal to MPs. To enable states to do this, stakeholders need to work closely with delegations to raise awareness of the state under review's legislative agenda. This further underscores the importance of parliamentarians contributing information to the UPR through stakeholder submissions and advocacy.

7

The Universal Periodic Review and the Judiciary

This final substantive chapter turns to the engagement of the judiciary with the Universal Periodic Review (UPR). Unlike the state actors discussed in Chapters 5 and 6, the judicial role in the UPR has only recently been recognized. Notably, a side-event of the UN Human Rights Council in 2023 emphasized the importance of legal professionals' participation in the UPR, and called for their awareness of the process to be enhanced.[1] Spurred on by these initiatives, scholars have examined precisely how and when the UPR might be used in courts.[2] At a subsequent side-event in 2024, attention turned specifically to the judiciary, with a report being presented by the International Bar Association (IBA) on how to enhance judicial engagement with the UPR.[3] Notwithstanding these important developments, this chapter aims to develop a more comprehensive understanding of the judicial role in the UPR through a case study of England and Wales. It reveals how judges can (and do) use the UPR, queries whether this engagement is necessarily desirable, and considers the possibility of strengthening judicial engagement in the UK and beyond. Importantly, this chapter presents judicial engagement

[1] UPR Info, 'Side Event: Contribution of Legal Professions to the UPR' (UPR Info 2023) https://www.upr-info.org/en/news/side-event-contribution-legal-professions-upr accessed 1 August 2025. Notes of the event are on file with the author.

[2] Michael Lane and Frederick Cowell, 'Using Universal Periodic Review Recommendations in UK Courts' (2024) 29 *Judicial Review* 119.

[3] UPR Info, 'Side Event During the 57th Session of the UN Human Rights Council: Enhancing Implementation of UPR Recommendations through Judicial Engagement' (2024) https://upr-info.org/en/news/implementation-upr-judicial-engagement accessed 1 August 2025; International Bar Association, 'Tips for Enhancing Judicial Engagement with the United Nations Human Rights Council Universal Periodic Review' (2024) https://www.ibanet.org/document?id=Tips-for-judicial-review-report accessed 1 August 2025.

as having two interrelated dimensions. First, the judges and legal profession can use the UPR to inform legal argument, and second, judges might engage in the process as stakeholders to inform states' reviews. Another important dimension, albeit one that is not considered in this chapter, is judicial representation at a state's review in Geneva. Nevertheless, seeing the role of judges at the UPR in this way reflects the fact that judges do not simply adjudicate on disputes. Instead, they have a 'multi-dimensional' role, both inside and outside the courtroom, which can include policy-influencing.[4] It is pertinent to consider all aspects of the judicial role if we are to fully appreciate the potential of their engagement with the UPR. In these ways, the chapter further contributes to the third aim of this book by revealing the myriad ways in which the UPR can inform the work of state actors, and the factors that contribute to or hinder this. A greater understanding of the judicial function has implications for the impact of the UPR in the UK, but also in other common law jurisdictions. This chapter also offers an important reminder of the diverse ways that international human rights law, including the UPR, can and does inform domestic mobilization. The first section tackles the primary dimension of judicial engagement with the UPR 'in the courtroom'. Initially, it considers the use of the UPR in court to date before turning to its potential in future cases. The next section looks at the second dimension – the UPR outside the courtroom – principally how the judiciary can and does participate as a stakeholder in the UPR. Finally, this chapter analyses current initiatives for enhancing judicial engagement with the UPR in light of the findings.

The UPR in the courtroom

Our starting point is to recognize that courts in the UK can engage with international human rights law but only in certain circumstances. In the case of treaties ratified by the UK, domestic courts will give effect to these but only if they are incorporated by Parliament or, in the case of an unincorporated treaty, if it is 'appropriate and relevant'.[5] Thus, an unincorporated treaty might be used legitimately to assist with the interpretation of legislation, guide judicial discretion, or influence the development of the common law.[6] Similarly, customary international law does not automatically have direct effect in the UK, but may nevertheless inform decision-making in

[4] On the varied functions of the judiciary in England and Wales, see Josie Welsh, 'Looking Beyond the Traditional: A Multi-Dimensional Account of the Modern Judicial Role' (2024) 29 *Judicial Review* 22.

[5] *Belhaj and another v Straw and others; Rahmatullah (no 1) v Ministry of Defence and another* [2017] UKSC 3, [2017] AC 964 [252], per Lord Sumption.

[6] *R v Lyons* [2003] 1 AC 976 [13], per Lord Bingham.

the same ways.[7] This separation between international and domestic law reflects the dualist approach of the UK and the doctrine of parliamentary sovereignty. Nevertheless, while this separation seems relatively strict, judges are routinely engaged with issues of international law, particularly in the realm of human rights. Various international human rights treaties are, either wholly or partly,[8] incorporated into UK law, the most obvious being the European Convention on Human Rights (ECHR). And there are a myriad of interpretative devices and principles that enable judges to seek recourse to unincorporated international human rights law, for instance the principle of legality.[9] It is unsurprising that, against this complex backdrop, plentiful research has been dedicated to studying the practice of UK courts using international law.[10]

However, comparatively less attention has been turned to courts' use of the findings of international bodies, such as the UN treaty bodies (UNTBs) and the UPR.[11] For some, this might seem a trivial matter. Unlike with treaties

[7] *Belhaj and another v Straw; Rahmatullah* (n 5).

[8] There is no specific mode of incorporation that must be followed by Parliament, see comments by Lord Steyn in *R (European Roma Rights Centre) v Immigration Officer at Prague Airport* [2004] UKHL 55 [2005] 2 WLR 1, [42], 'It is true, of course, that a convention may be incorporated more formally by scheduling it to an instrument, eg the Carriage of Goods by Sea Act 1971 which enacted the Hague-Visby Rules, But there is no rule specifying the precise legislative method of incorporation. It is also possible to incorporate a treaty in part, eg the European Convention on Human Rights was incorporated into our law without article 13: see Human Rights Act 1998'.

[9] For more on the engagement of UK courts with unincorporated treaties, see Fatima Shaheed, 'Engagement of English Courts with International Law' in André Nollkaemper, Yuval Shany, Antonios Tzanakopoulos and Eleni Methymaki (eds), *The Engagement of Domestic Courts with International Law* (Oxford University Press 2024).

[10] For example, see International Law Association, 'Final Report on the Impact of Findings of the United Nations Human Rights Treaty Bodies' https://www.ila-hq.org/en_GB/documents/conference-report-berlin-2004-9 accessed 1 August 2025; Rosanne van Alebeek and André Nollkaemper, 'The Legal Status of Decisions by Human Rights Treaty Bodies in National Law' in Geir Ulfstein and Helen Keller (eds), *UN Human Rights Treaty Bodies: Law and Legitimacy* (Cambridge University Press 2012); Christine Bicknell, 'International Law in Human Rights Cases Before the UK Courts' (*Exeter Centre for International Law*, 2024) https://www.exeter.ac.uk/v8media/universityofexeter/collegeofsocialsciencesandinternationalstudies/lawimages/research/Bicknell_-_International_Law_in_Human_Rights_Cases_before_the_UK_Courts_-_ECIL_WP_2024-1.pdf accessed 1 August 2025; Machiko Kanetake, 'UN Human Rights Treaty Monitoring Bodies Before Domestic Courts' (2018) 67 *International and Comparative Law Quarterly* 201; Lord Lloyd-Jones, 'International Law Before United Kingdom Courts: A Quiet Revolution' (2022) 71 *International and Comparative Law Quarterly* 503; Brice Dickson, *International Human Rights Monitoring Mechanisms: A Study of Their Impact in the UK* (Edward Elgar Publishing 2022).

[11] A notable exception is Dickson, ibid.

and customary international law, UPR recommendations are not binding on the state. Moreover, as a political forum for states to 'share best practice', it may not be immediately apparent how the UPR could be used to advance legal argument. Yet, some scholars have observed that the UPR exercises law-making functions,[12] and may be used to identify international law, notably custom.[13] In a recent report, the IBA provides a series of 'tips' for judicial engagement with the UPR including 'citing accepted recommendations … to create precedent' and 'referencing recommendations … to reinforce their arguments'.[14] Yet, it does not elaborate on precisely how recommendations 'create precedent' or how they might 'reinforce' arguments. Nor does the report provide real examples of judges using the UPR in these ways. To that end, we begin with an empirical assessment of when and how the UPR has been used in English and Welsh courts to date.

The UPR in English and Welsh courts

A search of law reports to date shows only nine cases have explicitly referred to the mechanism,[15] and on most of these occasions the UPR does not appear to have significantly affected the court's decision. In any case, a close examination of these instances is worthwhile to query the strengths and limitations of the UPR in the courtroom. The most pertinent theme of these cases is that on seven occasions the courts used other states' UPRs to inform decisions on asylum claims. More specifically, the UPR assisted in determining the risk of refoulment if migrants were returned to their country of origin. For this purpose, the

[12] Frederick Cowell, 'What Is the UPR? Thinking About the UPR as a Source of International Law' in Damian Etone, Amna Nazir and Alice Storey (eds), *Human Rights and the UN Universal Periodic Review Mechanism: A Research Companion* (Routledge 2024).

[13] Elvira Domínguez-Redondo, 'The Universal Periodic Review – Is There Life Beyond Naming and Shaming in Human Rights Implementation?' (2012) 2012 New Zealand Law Review 673; Frederick Cowell, 'Understanding the Legal Status of Universal Periodic Review Recommendations' (2018) 7 *Cambridge International Law Journal* 164; Lane and Cowell (n 2).

[14] International Bar Association, 'Tips for Enhancing Judicial Engagement' (n 3) 21–22.

[15] *R (on the application of AAA (Syria)) v SSHD* [2023] UKSC 42; *R (AAA (Syria) and others) v SSHD* [2023] EWCA Civ 745; [2023] 1 W.L.R. 3103; *R (on the application of AAA (Syria)) v SSHD* [2022] EWHC 3230 (Admin); [2022] 12 WLUK 280; *Deutsche Bank AG (London Branch) v Central Bank of Venezuela* [2022] EWHC 2040 (Comm); [2022] 7 WLUK 430; *Al-Waheed v Ministry of Defence and Mohammed (Serdar) v Ministry of Defence and another (no 2) (Qasim and others intervening)* [2017] UKSC 2; [2017] A.C. 821; *BM, DS, BBM, DK and AA v SSHD* [2015] UKUT 293 (IAC); [2015] 5 WLUK 848; *K, J, Miss K v SSHD and SSHD v AS* [2013] UKUT 62 (IAC); [2013] 4 WLUK 771; *HM, RM, HF v SSHD* [2012] UKUT 409 (IAC); [2012] 11 WLUK 349; *Mohammed Fakhar Al Zaman Lodhi v SSHD* [2010] EWHC 567 (Admin); [2010] 3 WLUK 581.

courts utilized UPR documentation including UN compilations[16] and recommendations made by states.[17] Another case used evidence from Venezuela's UPR to examine facts relating to the independence of the state's judiciary.[18] This means that the UPR has been deployed – in eight of the nine cases identified – as a means to inform empirical observations about the human rights situations in other countries. That is to say, the UPR has assisted in making findings of *fact* rather than determinations of law. It is perhaps unsurprising that the UPR is used in this way; after all, its primary function is to monitor human rights across all states. The provision of this information has obvious application in asylum cases, and it is apparent that courts and litigants in the UK consider the UPR a reliable source of human rights conditions globally.

In one case, *Al-Waheed*, the UPR was used to assist with the interpretation of the ECHR.[19] Here, the question for the UK Supreme Court was whether British armed forces had the right to detain members of opposing armed forces in Afghanistan in excess of 96 hours. This appeared to be in breach of the European Convention, article 5 (right to liberty), but the Government submitted that the Convention did not apply in overseas armed conflicts and, even if it did, the Convention was qualified by UN Security Council (UNSC) resolutions permitting the detentions. The majority of the court confirmed this position. The UNSC resolutions entitled British forces to detain enemy combatants for 'imperative reasons of security', and the European Convention 'should be read so as to accommodate, as permissible grounds, detention pursuant to that power'.[20] Dissenting, however, Lord Reed argued that the Convention has extraterritorial effect and applied notwithstanding the UNSC resolutions. The starting point for Lord Reed was article 31(3)(b) of the Vienna Convention on the Law of Treaties (VCLT), which specifies that interpretation of treaties should take into account subsequent state practice. Applying this to the European Convention, Lord Reed claimed '[t]he practice of other contracting states in relation to non-international armed conflicts does not establish a common

[16] For example, the 2014 Stakeholder Summary for the review of the Democratic Republic of Congo in *BM, DS, BBM, DK and AA v Secretary of State for the Home Department* [2015] UKUT 293 (IAC); [2015] 5 WLUK 848, see the Appendix to the judgment; the 2009 Stakeholder Summary for Iraq's review in *HM, RM, HF v The Secretary of State for the Home Department* [2012] UKUT 409 (IAC); [2012] 11 WLUK 349 [152].

[17] Recommendations made by the UK to Rwanda in *R (on the application of AAA (Syria)) v Secretary of State for the Home Department [2023] UKSC 42* [76].

[18] *Deutsche Bank AG (London Branch) v Central Bank of Venezuela* [2022] EWHC 2040 (Comm); [2022] 7 WLUK 430 [58]–[60].

[19] *Al-Waheed v Ministry of Defence* (n 15).

[20] ibid [111].

intention to modify the obligations arising under article 5'.[21] It is here that a UPR recommendation from Switzerland to the UK was deployed:

> [S]tatements by a number of contracting states confirm, without qualification, the continuing relevance of international human rights law and, in particular, of the Convention … Switzerland has questioned the United Kingdom's claim that the provisions of the Convention need to be qualified, in the context of military operations overseas, in order to take SCRs into account, and recommended that the United Kingdom should consider that any person detained by armed forces is under the jurisdiction of that state, which should respect its obligations concerning the human rights of such individuals.[22]

In one respect, this use of the UPR is unremarkable. It seems consistent with the cases noted previously because the recommendation is used to inform an (empirical) observation of state practice, namely of Switzerland. However, the UPR here is notable because that observation of state practice *informed the interpretation of an international treaty*. The recommendation was used, therefore, to help ascertain what the law is. This is significant because it is doubtful whether the UPR, when created, was foreseen as a means to inform interpretations of international law, yet this case shows that the UPR can be used for that purpose.

These observations also raise pertinent questions about the legal status of the UPR. Can the UPR be considered a law-making process? Or could we categorize recommendations as 'law'? This is not the place for an extended discussion about the nature of law, but a few cursory observations are necessary. On the one hand, the very idea of ascribing legal status to the UPR sits uncomfortably with formalist theories of law. According to the 'source thesis', law is something that must be ascertained or deduced by seeing whether a given norm meets certain standards or criteria of a rule of law. Law is 'identified by its pedigree'.[23] Similar arguments appear to have been made by the UK Supreme Court (UKSC) with respect to the findings of UN treaty bodies. In *AB v Secretary of State for Justice*, Lord Reed, commenting on the General Comments of the Committee on the Rights of the Child, went to lengths to emphasize their lack of legal status:

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[21] ibid [311].

[22] ibid. For the original recommendation, see HRC, 'Report of the Working Group on the Universal Periodic Review: United Kingdom of Great Britain and Northern Ireland' (2008) UN Doc A/HRC/8/25 (UK First Cycle Working Group Report) paras 33, 56.

[23] Jean d'Aspremont, *Formalism and the Sources of International Law: A Theory of the Ascertainment of Legal Rules* (Oxford University Press 2011) 148.

> [I]t is unfortunate that the General Comments of the CRC have been described in some dicta in this court as 'authoritative' … The CRC was established '[f]or the purpose of examining the progress made by states parties in achieving the realization of the obligations undertaken in the present convention' (article 43 of the UNCRC). It is not a judicial body … It has a variety of functions under the UNCRC and its protocols, but none of them gives it any binding authority. It has adopted the practice of publishing its interpretation of provisions of the UNCRC, in the form of General Comments, but they have no defined status, and they are not analogous to the rulings of an international court. They do not contain the legal analysis which would be found in a judicial adjudication on the interpretation and application of an international treaty.[24]

Thus, for Lord Reed, the authority and legality of UNTBs' General Comments are undermined by several factors, including the fact that the underlying purpose for which the UNTBs were established was to monitor progress rather than act as judicial bodies, that their General Comments lack a defined status, and that those Comments often contain insufficient legal analysis. Notwithstanding concerns about the UKSC's 'reversion' to formalism,[25] Lord Reed's dicta is an insight into the various difficulties of recognizing the UPR as a source of law. The UPR is not a judicial organ, nor even 'quasi-judicial', as other international mechanisms have been termed.[26] It is a political forum for states to, among other things, 'share best practice' rather than to make assertions of law. Recommendations are also rarely worded using normative terms – they are often vague and use hortatory and encouraging rather than obligatory language.[27]

These observations do not, however, prevent us from conceiving of the UPR as having law-making capacity. Foremost, the idea that a body cannot produce 'law' because it was not originally established for that

[24] *AB v Secretary of State for Justice* [2021] UKSC 28 [64] – [65] per Lord Reed.

[25] Ljb Hayes, 'Discrimination by Legal Design? UK Supreme Court in *Mencap v Tomlinson-Blake* Finds Care Workers Are Not Protected by Minimum Wage Law for Sleep-in Shifts' (2022) 51 *Industrial Law Journal* 696; Conor Gearty, 'In the Shallow End' (2022) 44 *London Review of Books* https://www.lrb.co.uk/the-paper/v44/n02/conor-gearty/in-the-shallow-end accessed 1 August 2025.

[26] Eva Brems, 'UN Human Rights Treaty Bodies Talking to Domestic Adjudicators Through Their Quasi-Judicial Work: An Examination of CERD and CEDAW' (2023) 45 *Human Rights Quarterly* 568.

[27] UPR Info advocate for this approach, see UPR Info, 'A Guide for Recommending States at the UPR' (2015) https://upr-info.org/en/news/upr-info-publishes-first-guide-recommending-states-upr accessed 1 August 2025.

purpose does not stand up to scrutiny. Ramses Wessel explains that while law-making was not traditionally understood as a function of international organizations, it is now 'undisputed' that they make law.[28] Indeed, various organs of the UN were not foreseen as having law-making powers, but one would be hard pressed to argue that its organs are not now involved in law-making. The UN General Assembly is an obvious example: it was not created to contribute to the creation of customary international law, but it is trite that it now functions to reveal state practice and *opinio juris*. In the same way, while the UN resolutions that establish the UPR do not recognize it explicitly as having law-making functions, this does not prevent the mechanism from evolving and being used legitimately for purposes not originally envisioned. Additionally, just because a body is not 'judicial' and does not produce binding judgments does not prevent its decisions from being relevant in judicial decision-making. We have already seen how Lord Reed himself referred to a UPR recommendation to assist with the interpretation of the ECHR. And there was nothing inherently controversial about this. Lord Reed was entitled, by virtue of the VCLT, to consider UPR recommendations as an insight into the expected state behaviour under the ECHR. In these ways, we can see that the UPR clearly performs a law-making function. The process is capable of facilitating dialogue on the expected human rights practices of states and can create authoritative statements in the form of recommendations. Cowell is therefore right to suggest that the UPR has the 'hallmarks of a law-making process'.[29]

Future uses of the UPR

The UPR has been described as an 'evolving process'.[30] Since the first cycle in 2008, the modalities and focus of the UPR have not been static. Rather, the mechanism is in a constant state of flux. The framing and subject matter of recommendations, too, have varied. If states and other stakeholders begin to appreciate the implications of the UPR in the courtroom, it is not unforeseeable that views expressed at the interactive dialogue and the content of recommendations will also change. With that, we may see the mechanism deployed creatively by lawyers for other purposes, beyond those explored so far.

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[28] Ramses Wessel, 'Institutional Lawmaking: The Emergence of a Global Normative Web' in Catherine Brölmann and Yannick Radi (eds), *Research Handbook on the Theory and Practice of International Lawmaking* (Edward Elgar Publishing 2016) 183.

[29] Cowell, 'Thinking About the UPR as a Source of International Law' (n 12) 83.

[30] Kathryn McNeilly, 'The Universal Periodic Review as an Evolving Process: Examining the Path of Development' in Damian Etone, Amna Nazir and Alice Storey (eds), *Human Rights and the UN Universal Periodic Review Mechanism: A Research Companion* (Routledge 2024).

Recent research has sought to explore this possibility. Lane and Cowell, in *Using UPR Recommendations in UK Courts,* posit that both groups of recommendations (in aggregate) and individual recommendations could be used in the courtroom for various purposes.[31] Recommendations in aggregate can be used to identify customary international law,[32] and thus inform development of the common law; or they might help evidence human rights practices in other states.[33] Individual recommendations can indicate state practice for the purpose of interpreting international treaties (as noted earlier), or potentially form the basis of legitimate expectations. Based on the case law analysed there, these all appear plausible opportunities for UPR recommendations to be used in court. Nevertheless, some critique and commentary on this research is warranted here.

First, it is plausible that the methods of application identified by Lane and Cowell would have greater value in other jurisdictions. Although the authors' focus is on the UK, the doctrine they draw upon is applicable in other common law jurisdictions. It is apparent, too, that the UPR would have greater application in Scotland than in other countries of the UK. Scotland has been particularly receptive to international human rights standards and has begun to incorporate the core UN human rights treaties.[34] With this, of course, comes greater scope for courts in Scotland to engage with international human rights law. Notably, the Act which incorporates the UN Convention on the Rights of the Child (UNCRC) provides that courts 'may' take into account, among other things, General Comments and concluding observations of the UN Committee on the Rights of the Child, as well as 'other international and comparative law'.[35] In its briefing to the Scottish Parliament, the Children and Young People's Commissioner for Scotland noted that this provision 'avoids any perceived ranking of listed and non-listed sources, as well as accommodating new sources which may arise' and allows courts 'to take the widest possible interpretation of international

[31] Lane and Cowell (n 2).

[32] Cowell, 'Legal Status of UPR Recommendations' (n 13).

[33] This is particularly useful in the context of immigration proceedings to determine the risk of refoulment, see 'The UPR in English and Welsh courts'.

[34] Alma Economics and Scottish Government, 'A Human Rights Bill for Scotland: Analysis of Consultation Responses' (2024) https://www.gov.scot/binaries/content/documents/govscot/publications/consultation-analysis/2024/01/human-rights-bill-scotland-analysis-consultation-responses/documents/human-rights-bill-scotland-analysis-consultation-responses/human-rights-bill-scotland-analysis-consultation-responses/govscot%3Adocument/human-rights-bill-scotland-analysis-consultation-responses.pdf accessed 1 August 2025.

[35] United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, s 4(2).

sources in proceedings affecting children's lives'.[36] Certainly, the reference to 'other' sources and law in other jurisdictions gives courts considerable freedom to utilize a diverse range of materials, which could include the UPR. Judges and advocates may find value in recommendations to interpret provisions of the UNCRC or, when researching other jurisdictions, to evidence international practice. The example given by Lane and Cowell, regarding supported UPR recommendations on alternatives to detention of children, is particularly pertinent here.[37]

It should also be noted that the extent to which the UPR is deployed in the courtroom will depend on a variety of factors. Most obviously, litigants, lawyers and judges will need to be aware of the UPR and its relevance to their work. Simmons explains that for international law to inform domestic litigation, '[a] certain degree of "legal literacy" is required'.[38] This may appear trite, but it is easy to forget the array of potentially applicable human rights sources for a court in any given dispute. If the UPR is going to be used more frequently in the courtroom, then awareness raising, as discussed in the final part of this chapter, is critical. An additional factor is that, even if there is awareness of the UPR, not all judges will be convinced of the UPR's value. Machiko Kanetake and André Nollkaemper explain there are a 'number of historical, conceptual, and pragmatic factors [that] lead to the varied judicial amenability to informal international instruments'.[39] The first of these, they argue, is the uncertainty of what constitutes 'persuasiveness'. This reiterates somewhat the earlier discussion of whether we can categorize the UPR and its recommendations as 'law' – a judge adopting a formalist view of international law will be unlikely to recognize any legal utility in a UPR recommendation. But there is a broader issue about to what extent a recommendation can be considered persuasive. Judges might deploy international human rights law presupposing that it is an inherent good and should, by extension, influence decision-making. However, a judge may not be convinced by the value of a UPR recommendation if they see the mechanism as 'unfair or unnecessary'.[40] This links to Machiko and

[36] Children and Young People's Commissioner Scotland, 'United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill: Stage 3 Briefing' (2020) https://www.cypcs.org.uk/wpcypcs/wp-content/uploads/2021/03/UNCRC-Incorporation-Stage-3-briefing-1.pdf accessed 1 August 2025.

[37] Lane and Cowell (n 2) paras 20–21.

[38] Beth Simmons, *Mobilising for Human Rights: International Law in Domestic Politics* (Cambridge University Press 2009) 132.

[39] Machiko Kanetake and André Nollkaemper, 'The Application of Informal International Instruments Before Domestic Courts' (2014) 46 *George Washington International Law Review* 765, 802.

[40] ibid.

Nollkaemper's second point, that domestic courts and judges may not always distinguish between an instruments' persuasiveness and bindingness. Some judges, they suggest, are 'less sensitive' about separating instruments that fall into these categories.[41] Finally, Machiko and Nollkaemper suggest that a state's separation of powers may affect judicial amenability.[42] Judges applying the UPR may be conscious of what they perceive to be their proper constitutional role. In jurisdictions with a strict separation of powers, judges might refrain from deploying a recommendation in legal argument as this could be seen as an attempt at implementing or giving direct effect to international rules without the intervention of the political branches. Indeed, Christine Bicknell has argued that recent UKSC jurisprudence has reaffirmed the separation of the judiciary from the legislature and executive,[43] which may be a barrier to the UPR being deployed in future cases. These factors are revisited in the final part of this chapter when considering how judicial engagement with the UPR could be enhanced.

Lane and Cowell's research also raises some pertinent questions about the desirability of using the UPR in the ways they describe: just because it *can* be used, does not mean that it *should* be. On the one hand, deploying recommendations in court, even unsuccessfully, may influence the way that rights issues are discussed and reframe 'political demands in the legitimizing framework of rights'.[44] Simmons suggests that treaties provide an opportunity for litigants to 'claim, define, and struggle over a right that might not have a well-defined or well-tested counterpart in domestic law'.[45] Though they are distinct from treaties, in theory we may say the same of UPR recommendations. For instance, a recommendation might come to the aid of a litigant contesting over the scope of a domestically enforceable treaty right by illuminating a favourable interpretation. Even if this proves futile, Alan Hunt explains that 'litigation "failure" may, paradoxically, provide the conditions of "success" that compel a movement forward'.[46] Take a sentencing judge that chooses to imprison a juvenile offender, despite being presented with a series of UPR recommendations that demonstrate a growing global consensus toward alternatives to imprisonment for children.[47] Children's rights groups may nevertheless make political gains by portraying the court's approach as 'out of touch'. Research has also shown that domestic courts are

41 ibid 804.
42 ibid 803–804.
43 Bicknell (n 10).
44 Simmons, *Mobilising for Human Rights* (n 38) 134.
45 ibid 135.
46 Alan Hunt, 'Rights and Social Movements: Counter-Hegemonic Strategies' (1990) 17 *Journal of Law and Society* 309, 320.
47 Lane and Cowell (n 2) 20–21.

not simply passive recipients of international law. Filiz Kahraman et al explain that domestic courts 'can often act as substantive creators of global norms' and are 'endogenous sites for international political change'.[48] For instance, if a court were to engage with the UPR for the purpose of identifying a rule of customary international law, that judgment could be used to inform a similar finding in other domestic or international courts.

Yet, certain applications of the UPR in the courtroom are potentially controversial, particularly the use of legitimate expectations. The doctrine entitles courts to hold public authorities to promises but only where these are 'clear, unambiguous and devoid of relevant qualification',[49] and if to renege on that promise would be disproportionate.[50] Lane and Cowell propose that a UPR recommendation might give rise to a legitimate expectation, but only where it meets the threshold of clarity and unambiguity and is subsequently accepted by the UK Government.[51] The authors recognize that this approach is not without its problems. UK courts have been particularly hesitant to apply the doctrine with respect to international human rights as it risks 'introducing international law "by the back door of legitimate expectation when the front door is firmly barred"'.[52] There are also likely to be very few recommendations (if any) that are applicable for this purpose.

A more significant issue, however, is that even if courts were willing to recognize a legitimate expectation flowing from a supported recommendation, the doctrine may not be the most appropriate vehicle for facilitating greater protection of human rights. On the one hand, advocates of this method emphasize the importance of securing relief for individuals affected by breaches of human rights treaties. Notably, Lord Lester previously considered that the Civil Service Code, which as of 1996 requires ministers and civil servants to comply with international law, had given rise to a 'new year's legitimate expectation' and asserted that actions on this basis '*should* be pursued in the interests of securing effective domestic remedies for violations of human rights'.[53] Murray Hunt, however, was

[48] Filiz Kahraman, Nikhil Kalyanpur and Abraham L Newman, 'Domestic Courts, Transnational Law, and International Order' (2020) 26 *European Journal of International Relations* 184, 200.

[49] *R (MP) v Secretary of State for Health and Social Care* [2020] EWCA Civ 1634, [2021] PTSR 1122 [53].

[50] *R (Nadarajah) v Secretary of State for the Home Department* [2005] EWCA Civ 1363 [69] (Laws LJ).

[51] Lane and Cowell (n 2) paras 30–34.

[52] ibid 31, citing Glidewell LJ in *Chundawadra v Immigration Appeal Tribunal* [1988] Imm AR 144, 173–174.

[53] Lord Anthony Lester, 'Government Compliance with International Human Rights Law: A New Year's Legitimate Expectation' [1996] PL 187, 189. Emphasis added.

particularly critical of this perspective, arguing that 'the doctrine of legitimate expectation hardly provides a very secure foundation on which to build greater domestic protection for human rights'.[54] Among the reasons given, Hunt notes that there is 'nothing in the doctrine to prevent the Government from precluding any expectation'.[55] Simply, the Government could defeat the expectation by declaring that citizens should place no reliance upon international obligations. Hunt's understandable concerns have resonance with respect to UPR recommendations. If it was successfully argued that a legitimate expectation had arisen from an accepted UPR recommendation, then of course the individual(s) in that particular case would benefit from relief. But it is foreseeable that the UK Government would then do one of two things. It might continue to support UPR recommendations but with a substantial caveat this should not entail any expectation of government action. Alternatively, the UK Government might simply refrain from supporting certain recommendations altogether. In either case, the Government would seek to ensure that the prospect of any subsequent legitimate expectations arising is nil. Perhaps more importantly, though, the downplaying of the significance of supporting recommendations is bound to undermine domestic actors' leverage of these in the political arena. These outcomes might be even worse in jurisdictions if legitimate expectation is applied more liberally than in the UK. Thus, the doctrine might be used as a vehicle to hold governments to account over the UPR, but it is doubtful whether it should be attempted without serious consideration of the wider ramifications.

The judiciary as stakeholders

As emphasized at the outset of this chapter, judges are not simply adjudicators of disputes but have a multi-dimensional role and could in theory contribute to the UPR in various ways. Hence, while the preceding section considered the UPR *inside* the courtroom, the following discussion concerns how judges engage with the mechanism *outside* as stakeholders. This investigation is prompted by the various proposals that judges should, for instance, engage in consultations for a state's UPR national report and contribute a separate section to that report.[56] These are important opportunities. Judges occupy a unique position in a state's constitution and will likely have important

[54] Murray Hunt, *Using Human Rights Law in English Courts* (Hart 1997) 253.

[55] ibid 254.

[56] International Bar Association 'Tips for Enhancing Judicial Engagement' (n 3) 16; OHCHR, '4th Cycle Universal Periodic Review National Report – Guidance Note' (2024) https://www.ohchr.org/sites/default/files/documents/hrbodies/upr/infonotes/4thCycle-Guidance-Note-National-Report-EN.pdf accessed 1 August 2025.

insights into the day-to-day challenges faced by litigants and victims of human rights breaches.

An analysis of stakeholder submissions for the UK's four UPRs to date revealed many references to case law and other judicial activity. Additionally, there have been stakeholder submissions by organizations that represented and/or were comprised of members of the legal profession. Notably, the Law Society of England and Wales (LSEW), the professional body for solicitors in the regions, have contributed reports to the UK's second,[57] third[58] and fourth[59] reviews. Authored by the LSEW's international and legal policy teams, these reports focused primarily on issues affecting the legal profession and the rule of law such as access to justice (including legal aid), the court system and human rights. There have also been stakeholder submissions from coalitions of foreign and domestic lawyers[60] and university law clinics.[61] However, from the written evidence that can be gleaned from stakeholder reports to date, there have yet to be any submissions from individual judges or their various associations. The same can be said of judicial engagement with the various consultations held by the UK Government for the UPR process. This is perhaps unsurprising given that it is only recently that a role for judges at the UPR has been foreseen. As discussed already, knowledge and awareness of the mechanism among judges in the UK is likely to be limited, and initiatives such as those undertaken by the IBA are important. There are, however, particular constitutional factors, notably the principle of judicial independence, which may prevent judges from engaging as stakeholders in the UPR.

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[57] The Law Society of England and Wales, 'Submission to the UN Human Rights Council' (2012) https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session13/GB/LS_UPR_GBR_S13_2012_LawSociety_E.pdf accessed 1 August 2025

[58] The Law Society of England and Wales, 'Universal Periodic Review – United Kingdom' (2016) https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=3803&file=EnglishTranslation accessed 1 August 2025.

[59] The Law Society of England and Wales, 'Untitled Submission for the UK's Fourth UPR' (2022) https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=9997&file=EnglishTranslation accessed 1 August 2025.

[60] Center for Constitutional Rights et al, 'Joint Submission for the UK's Universal Periodic Review' (2017) https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=3842&file=EnglishTranslation accessed 1 August 2025; Abolition 2000 UK et al, 'United Kingdom's Nuclear Weapons Policies: Obligations under International Human Rights Law Including Article 6 of the International Covenant on Civil and Political Rights' (2022) https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=9935&file=EnglishTranslation accessed 1 August 2025.

[61] Liverpool Law Clinic et al. 'Joint Submission to the Human Rights Council at the 41st Session of the Universal Periodic Review: United Kingdom of Great Britain and Northern Ireland (2022) https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=10288&file=EnglishTranslation accessed 1 August 2025.

In the first place, it is worth emphasizing that judges in England and Wales are not prohibited from engaging in 'extra-judicial' activities. This is clear from the various guidelines published by the Judicial Executive Board.[62] Judges are entitled, for instance, to give speeches, write and communicate with the wider public. They may also (usually through associations) respond to calls for evidence and consultations.[63] In the past, this has included meeting with representatives from international monitoring bodies. For instance, the Council of Europe's Group of States Against Corruption, as part of its evaluation of the UK in 2007, met with and received evidence from Council of Her Majesty's Circuit Judges.[64] There is therefore nothing in principle that would prevent individual or associations of judges from contributing a stakeholder report to the UK's UPR, or from participating in consultations run by the Government. It may in fact be desirable for judges to be involved in these ways. The Guide to Judicial Conduct explains that: 'aspects of the administration of justice and the functioning of the courts are the subject of necessary and legitimate public consideration, and appropriate judicial contribution to this debate can be desirable. It may contribute to public understanding and to public confidence in the judiciary.'[65]

Lord Hope, then Deputy President of the UK Supreme Court, equally remarked that judges 'have a part to play in informing the public on matters of general public interest'.[66] The IBA's report, too, highlights that 'judges possess a unique complement of advanced legal competences and first-hand experience within the justice system to identify pitfalls, good practices and relevant developments'.[67]

However, while contributing to the UPR in itself would be permissible, it is the *substance* of what judges might say that could be problematic.

[62] Judicial Executive Board, 'Guidance to the Judiciary on Engagement with the Executive' (2016) https://www.judiciary.uk/wp-content/uploads/2016/07/guidance-to-the-judiciary-on-engagement-with-the-executive.pdf accessed 1 August 2025; Judicial Executive Board, 'Guidance to Judges on Appearances Before Select Committees' (2012) https://www.judiciary.uk/wp-content/uploads/JCO/Documents/Guidance/select_committee_guidance.pdf accessed 1 August 2025.

[63] See https://www.judiciary.uk/related-offices-and-bodies/representative-bodies/ accessed 1 August 2025.

[64] Council of Europe Group of States Against Corruption, 'Evaluation Report on the United Kingdom on Incriminations (ETS 173 and 191, GPC 2) (Theme I)' (2007) https://rm.coe.int/16806ca46a accessed 1 August 2025, see para 4.

[65] Judiciary UK, 'Guide to Judicial Conduct' (2023) 17 https://www.judiciary.uk/guidance-and-resources/guide-to-judicial-conduct-revised-july-2023/ accessed 1 August 2025.

[66] Lord James Hope of Craighead KT, 'What Happens When the Judge Speaks Out?' (2010) 17 https://www.birmingham.ac.uk/Documents/college-artslaw/law/holdsworth-address/holdsworth09-10-hope.pdf accessed 1 August 2025.

[67] International Bar Association, 'Tips for Enhancing Judicial Engagement' (n 3) 14.

The Guide to Judicial Conduct explains that '[a]ll judicial office holders should be aware that, by long standing convention, they should not comment publicly *on the merits, meaning or likely effect of government policy or proposals, including proposed legislation*'.[68] This is qualified somewhat in the guidance for judges engaging with the executive:

> First, it is permissible for the judiciary to comment on the technical and procedural aspects of policy and legislation when the aim is not to influence policy or pass judgement on the merits of proposals or the effects of legislation. Secondly, it is permissible for the judiciary to comment on the merits of policy or legislation that affects the independence of the judiciary or the rule of law.[69]

The codes of conduct and guidance for judges therefore permit extra-judicial comment on policy and legislation but only on procedural matters and some substantive questions relating to the rule of law. The justification for these boundaries is the maintenance of judicial independence. Independence from the executive and legislative branches requires that 'a judicial office holder be, and be seen to be, independent of all sources of power or influence in society, including the media and commercial interests'.[70] As a result, judges will presumably be able to carry out their duties impartially, free from bias or other external interference. Judicial independence is also recognized globally as being central to the proper functioning of democratic states and the maintenance of human rights.[71] Nevertheless, the need for judges to remain independent poses a difficulty when they are called upon, as they appear to be now, to comment publicly on their state's human rights situation for the UPR. Judges in the UK have a delicate tightrope to walk. On the one hand, a judge might be safe to comment on human rights issues as they relate to access to justice and the rule of law. By way of example, Lady Hale in 2011 expressed concerns publicly about the human rights implications of the then Conservative–Liberal Democrat Government's plans to cut legal aid.[72] Presumably, Hale here could justify these observations on human

[68] Judiciary UK (n 65) 16. Author's emphasis.

[69] Judicial Executive Board (n 62) 3.

[70] Judiciary UK (n 65) 8.

[71] See the preamble to UN Economic and Social Council, 'Resolution 2006/23: Strengthening Basic Principles of Judicial Conduct' (2006) UN Doc E/RES/2006/23, 'Convinced also that the integrity, independence and impartiality of the judiciary are essential prerequisites for the effective protection of human rights and economic development'.

[72] Lady Brenda Hale, 'Sir Henry Hodge Memorial Lecture: Equal Access to Justice in the Big Society' https://supremecourt.uk/uploads/speech_110627_947269e106.pdf accessed 1 August 2025.

rights by emphasizing the importance of legal aid and access to justice in the context of the rule of law. It may equally be permissible for judges to contribute comments on these issues in stakeholder reports to the UPR or as part of a UPR-related government consultation. However, while matters such as legal aid and access to justice might reasonably be considered 'rule of law issues', it remains a central debate in legal theory what the rule of law requires (or should require), in particular whether it necessitates that law upholds individuals' human rights or that the state upholds its international obligations.[73]

This is not the space for a lengthy discussion of the scope of the rule of law. Rather, it suffices to say that judges in the UK (and elsewhere)[74] will find it difficult to justify contributing information for the UPR – to be (potentially) critical of the human rights situation in the state – when they are expected to exercise reticence in public. Judges are unlikely to see the rule of law, amorphous as it is, as a stable basis for justifying contributions to the UPR process, or other international human rights mechanisms for that matter. Certainly, not all judges will be as confident as Lady Hale in discussing human rights matters publicly and will instead take the 'safe' position that '[s]o long as a Judge keeps silent his reputation for wisdom and impartiality remains unassailable'.[75] Future initiatives aimed at encouraging judges to provide information for the UPR will need to recognize that many will be understandably reluctant to be involved. It is to these initiatives that we can now turn.

Initiatives to enhance judicial engagement

It is apparent thus far that there is considerable scope for judges to engage with the UPR, both in and outside of the courtroom, but clearly the practice in the UK is still embryonic. It is plausible, too, that the same is true of other jurisdictions given that we are still learning of judges' functions in the UPR. It is possibly for this reason that there has been a series of important, recent initiatives to enhance judges' capacity and encourage greater engagement

[73] For a discussion of the distinction between thin (formalist) and thick (substantive) conceptions of the rule of law, see John Tasioulas, 'The Rule of Law' in John Tasioulas (ed), *The Philosophy of Law* (Cambridge University Press 2020). On the rule of law requiring respect for human rights and compliance with international law, see Tom Bingham, *The Rule of Law* (Penguin Books 2011).

[74] For example, Australia's strict adherence to the separation of powers and judicial independence means that there are significant limits on extra-judicial activity, see Matthew Groves, 'Public Comments by Judges of Their Colleagues: An Unhappy Australian Episode' (2016) 8 *Journal of Media Law* 98.

[75] AWB Bradley, 'Judges and the Media: The Kilmuir Rules' [1986] Public Law 384.

with the UPR. This includes the various events that are drawing practitioners' attention to the UPR[76] and the IBA's report and guidance.[77] The findings in this chapter offer an opportunity to reflect upon these current initiatives, particularly, given their significance, with respect to the IBA's guidance.

Foremost, the existing practice in the UK clearly affirms the potential for the UPR to inform judicial decision-making and the value that judges can bring by informing the state's review. It follows that there is a need to make practitioners and judges aware of the mechanism. Capacity-building and training, such as that undertaken by the IBA, is critical. To inform these initiatives, further research on the actual and potential use of the UPR is necessary, as is the sharing of judges and lawyers' perspectives on the value of the mechanism to their work. Considering the substance of the IBA's guidance in more detail, however, reveals some limitations in light of the UK's experience. First, the IBA's report omits important observations about the legal status of UPR recommendations. Though we are only recently recognizing the role of the judiciary in the UPR, the idea that recommendations can be legally significant is not new. That the UPR could be used to identify custom has been mooted since at least 2012.[78] Yet, the IBA's report does not acknowledge this, revealing a disconnect between contemporary research on the topic and guidance for judges. Future work on this issue would benefit from closer cooperation between the IBA and the academy. Second, the report provides only three examples of direct judicial engagement with the UPR,[79] and instead focuses on engagement with international human rights law more generally. This makes it difficult to see precisely how the UPR, specifically, might be relevant for judges. By way of example, the report cites the case of Mauritius and the recommendations it received to decriminalize same-sex sexual conduct between consenting adults.[80] It then explains how the Supreme Court of Mauritius ruled the criminal prohibition to be unconstitutional. Yet, the report does not explain whether the recommendations received by Mauritius had any bearing on the decision of the court. In fact, these recommendations were not referred to by the court in its judgment at all, suggesting the UPR was not relevant in

[76] UPR Info, 'Side Event: Enhancing Implementation of UPR Recommendations through Judicial Engagement' (n 3); UPR Info, 'Side Event: Contribution of Legal Professions to the UPR' (n 1).

[77] International Bar Association, 'Tips for Enhancing Judicial Engagement' (n 3).

[78] Domínguez-Redondo (n 13) 704.

[79] Exceptions are the example of a judge advising on the UPR of Tonga, judges' assistants in Brazil participating in national consultations, and judges' engagement with follow-up mechanisms in Malaysia and Kenya, see International Bar Association, 'Tips for Enhancing Judicial Engagement' (n 3) 14, 17, 25.

[80] ibid 22.

this particular instance.[81] While the judgment of the court is illustrative of domestic courts' ability to uphold human rights, examples such as this are not necessarily useful in revealing the specific utility of the UPR. Future initiatives, drawing from research on different jurisdictions, should highight occasions where the UPR has been actually used to inform a decision. Finally, and relatedly, not all of the IBA's tips are applicable to every jurisdiction. The report claims that it is 'intended for judges of all judicial systems, irrespective of different legal traditions, taking into consideration the different roles and constraints that judges have'.[82] Yet, it is apparent that some of the IBA's guidance would be difficult to implement in some jurisdictions, including the UK. By way of example, the report states that 'the role of judges is key to move from UPR recommendations to political commitments, and from political commitments to legal implementation'.[83] However the very idea that judges can (or should) implement unincorporated international human rights law is controversial, at least in dualist jurisdictions. As explored earlier, in states with a strict separation of power between the judicial and political branches, judges might be especially cautious before referring to (let alone seeking to implement) international law. These points serve to illustrate that while there is considerable value in the IBA's guidance, the UK's case reveals some shortcomings. Admittedly, it will always be difficult to compile guidance that is applicable to *all* judiciaries given the states' constitutional differences. But future standards, tips or principles should aim to present a more nuanced picture of how judges could engage with the UPR, especially while our understanding of existing global practice remains limited. We might ask, therefore, whether there is a case for stepping back and resurveying the landscape before further awareness-raising initiatives are undertaken. The IBA's report and tips are clearly significant, but further research is needed to explore current and future judicial engagement with the UPR in the courtroom to further illuminate this important relationship. More case studies, such as that of the UK explored in this chapter, will help us better see the mechanism's potential for judges.

Conclusion

The aim of this chapter was to examine the judiciary's engagement with the UPR in England and Wales across two dimensions: the UPR in the

[81] The full judgment can be found here: Carmel Rickard, 'Mauritius Supreme Court Upholds Gay Rights, Sets aside "Discriminatory" Penal Code Provision' (2023) https://africanlii.org/articles/2023-10-12/carmel-rickard/mauritius-supreme-court-upholds-gay-rights-sets-aside-discriminatory-penal-code-provision accessed 1 August 2025.

[82] International Bar Association, 'Tips for Enhancing Judicial Engagement' (n 3) 10.

[83] ibid 13.

courtroom, and judges at the UPR. Case law shows that the outcome of other states' UPRs is used primarily to inform judges' empirical assessments of human rights conditions abroad, notably to determine the risk of refoulment. But cases like *Al-Waheed* reveal the potential for the UPR to also help determine questions of law. Clearly, the UPR process is capable of facilitating a dialogue on what states consider to be appropriate human rights practices, which in turn can facilitate the interpretation and application of binding sources of international law. This analysis further brings to light how international human rights law, including the UPR, can and does inform domestic mobilization. Additionally, judges and other legal professionals clearly have much to offer as stakeholders by providing evidence that can inform states' reviews, particularly on issues relating to the legal system and access to justice. It is apparent, then, that there is a potentially fruitful, mutually beneficial relationship to be fostered between the UPR and states' judiciaries. Nevertheless, across both dimensions of engagement, judicial practice in England and Wales is minimal. This is plausibly the result of judges' limited understanding of the UPR and its relevance to their work. But, even if judges were well-versed, the constitutional separation of powers may hinder their receptivity to the UPR in the courtroom, and their willingness to engage in the process as stakeholders. Judges' independence from the political branches of state will inevitably cause some judges to think twice before engaging with the UPR, which is conventionally understood as a process for *political* actors. That is not to say that judges ought not to engage with the UPR. Rather, initiatives to enhance judicial engagement need to better recognize and account for the immovable difficulties judges will face and guide them accordingly. To achieve this, further research may be needed to explore the practice of judges in other states. Although much of the analysis presented here on the judiciary in England and Wales may be applicable to similar constitutional systems, it does not account for the divergent laws and practices across the common law world. This chapter is nonetheless a modest contribution to the emerging literature on judges and the UPR and will help stimulate ongoing conversation about the factors that hinder or facilitate this important relationship.

8

Conclusion

The aim of this book has been to develop a more complete understanding of the actual and potential impact of the Universal Periodic Review (UPR) on states. Specifically, it has sought to advance a way of looking at this issue by suggesting we can adopt an external and internal perspective. Part I, which focused on the external perspective, elaborated and applied a framework for assessing state practice at the UPR. The key takeaway here is that we can assess state practice against different standards. Chapter 2 suggests that we can compare a state's practice to the formal requirements of the UPR process, as set out in the various Human Rights Council (HRC) resolutions (the 'ideal' standards), or to its own previous practice or that of its peers (the 'empirical' standards). Building on this, the relevant standards are set out with the view that they could be applied in future studies. The hope is that if research on state practice begins to follow a consistent approach, we can start to look across studies and draw reliable conclusions about the contribution of the UPR. A study of the UK, in Chapter 3, shows how the framework can be applied, and how empirical comparisons, in particular, provide a valuable lens through which to critique state practice. Referring to the engagement of the UK's peers and its own, previous engagement with the UPR provided important insights into, for instance, the UK's receptivity to change, its stakeholder engagement, and implementation. The framework developed in Chapter 2 led to a fair and holistic critique of the UK's practice. While the UK was not always consistent with the strict requirements of the UPR process, we could see these divergences globally (notably, for instance, with respect to parliamentarians' involvement in the UPR). On the other hand, application of the framework allowed us to compare the UK's practice between cycles to identify progress and regression, showing in fact that in some areas the UK's engagement with the UPR has worsened over time. Equally, comparing the UK to its peers was critical in order to appreciate and critique the state's receptivity to change. The utility of the framework is limited though, as we have insufficient data available concerning implementation worldwide, making it difficult to draw empirical

comparisons at this crucial stage of the process. As (and if) this data becomes available, researchers are encouraged to update the framework accordingly. Hence, although the framework is a work in progress, it remains a crucial starting point.

The second part of this book drew attention to the internal perspective. Chapter 4 sought to defend this approach by emphasizing the role of domestic politics and showing how the UPR can be a catalyst for domestic mobilization. This turned our attention inward and required us to conceptualize state engagement with the UPR as involving each of its constituent parts – the executive, legislature and judiciary. Looking within the state at how the UPR can inform the work of constitutional actors provides a much fuller picture of how international mechanisms can and may come to affect change. Focusing exclusively on 'the state' as a unitary entity lends us to concentrate almost exclusively on the executive branch which, like in the UK, is responsible for representing the state on the international plane. This is not an entirely useless exercise, of course, but it does fail to capture the potentially important contributions of the legislative and judicial divisions, both of which, as we have seen, are implicated by the UPR. The empirical account provided in this book, which is the first of its kind on the UPR, allows us to see the benefits of conceptualizing the state as a multifaceted entity, and leads us to research further how the mechanism can inform the state's constituent parts. We need to keep up with the continued promotion, by international organizations, of the role of parliaments and judiciaries in the UPR.

In our survey of the three branches' engagement with the UPR, three recurring themes emerged. The first is that we did, indeed, see activity across the executive, legislature and judiciary. In itself, this is an important finding as it supports the theory that international mechanisms such as the UPR can influence the activity domestic actors. Specifically, we have seen how the UPR has facilitated dialogue between the political branches and civil society, thereby supporting a healthy democratic dialogue on rights issues. It has also provided these actors with meaningful leverage and evidence to justify and defend policy (in the case of government), scrutinize existing law and policy (in the case of Parliament), and to inform determinations of law (in the case of the judiciary). It is true to say, then, that the UPR can be seen to work as a catalyst for domestic mobilization in the UK. More difficult to identify, however, are the precise *outcomes* of this engagement on law and practice in the UK. This is in part because of the inherent challenges of trying to identify causation. It is plausible that many of the effects of the engagement we have seen are diffuse and will be gradual or only slight. If they are, it is unsurprising that these would not be documented and captured in this study. Evidently, though, the UPR is a more useful tool for some branches of the state than others. For the judiciary, in particular, while the UPR has clearly

been valuable as a source of evidence, it is difficult to foresee whether the mechanism will come to be more routinely used for other purposes. This would depend, arguably, on UPR recommendations becoming more specific and targeted such that they might become relevant in the courtroom. It is worth reiterating, too, that certain uses of the UPR, while possible, should be thought about carefully. For instance, it may appear promising to human rights advocates – lawyers, campaigners and litigants – that certain UPR recommendations could crystalize as legitimate expectations and form the basis of legal claims. To attempt such an argument in a courtroom would not only stress the device of legitimate expectations to its limit, but it may also cause the executive to be less willing to accept its recommendations. It is doubtful whether the benefits for litigants in a particular case would outweigh the detriment to the wider UPR process.

Second, it was interesting to see that across all three branches there was also engagement with the UPRs of other states. In Chapter 5, the Government was found to use the UPR as a tool to advance its foreign policy. It also used its activity as a recommending state to give an account of how it was seeking to advance human rights abroad. Likewise, as seen in Chapter 6, parliamentarians and the Foreign Affairs Committee frequently turn to the UPR as a way of informing themselves of the human rights situations in other countries, and to hold the Government to account over its foreign policy. And, in Chapter 7, the judiciary made use of other states' UPRs as evidence to inform asylum and immigration decisions. The UPR can thus be seen to serve a dual purpose for state actors to interrogate and inform human rights domestically *and* abroad.

Third, in the case of both Parliament and the judiciary, neither branch was found to contribute directly to the UPR through, for instance, the submission of stakeholder reports. In both cases, these branches' activity at the UPR is encouraged by the relevant HRC resolutions and other guidance, yet their engagement has been mostly limited to using the mechanism's outputs to inform their decisions. And, in both cases, this is likely in part to be the consequence of UK constitutional norms and traditions. For Parliament, its international functions have only recently developed (for example in relation to treaty scrutiny) and there appears little precedent for individual parliamentarians or parliamentary bodies such as committees engaging independently with the UPR or other international human rights mechanisms' reviews of the UK. Likewise, it would seem difficult for judges, alone or through their associations, to justify submissions to the UPR due to their (judicial) independence. This disconnect between the practice of the two branches and the relevant international guidelines is probably symptomatic of the broader difficulty faced by international organizations, like the UN, in seeking to accommodate states' individual, constitutional differences when encouraging the development of domestic human rights institutions.

Moreover, as the experience with the Paris Principles and national human rights institutions (NHRIs) has shown, international principles are a crucial tool for helping states develop their human rights systems, but we should not assume their application to be inherently desirable.[1] In the same way, we should interrogate carefully the assertion that National Mechanisms for Implementation, Reporting and Follow-up (NMIRFs), of the kind being promoted by the UN, are necessary in all states. They are, in principle, an important component of a government's infrastructure but the most 'effective' approach to coordinating engagement with the international mechanisms will naturally vary across states. All this to say: if states seek inspiration from international principles to develop domestic institutions, they should conduct a careful assessment of whether changes to domestic arrangements are needed, and, if they are, consider whether the relevant principles, when applied, would actually affect improvements.

The primary contributions of this book are to the academic study of the UPR and human rights in the UK. However, there are some clear policy implications that follow. On the one hand, we can envisage some changes to the UPR that would enhance both the quality of the review process and the potential for the outcome of that review to filter into the domestic sphere. The UPR is prone to evolution, but as we approach the twentieth anniversary of the HRC and the conclusion of the fourth cycle of the UPR, there appears an appropriate opportunity for the UN and researchers alike to reflect on the UPR's purpose and function, which has, for the most part, remained the same since 2011.[2] One critical weakness of the UPR, as revealed in Part I, is the lack of formalized follow-up. While subsequent UPRs are meant to focus on a state's implementation of recommendations from the previous cycle, there is nothing specifically in the UPR's modalities that require states to focus on this. The result is that it is difficult to observe, as we saw in Chapter 3, what action a state has taken between cycles. A potentially straightforward solution would be to require recommending states, during the interactive dialogue, to initially comment on the implementation of their recommendations made to the state in the

[1] See Gauthier De Beco and Rachel Murray, *A Commentary on the Paris Principles on National Human Rights Institutions* (Cambridge University Press 2015) 21. De Beco and Murray have suggested 'caution' before assuming the desirability of an NHRI in a state. In some cases, NHRIs may be inherently ineffective and find it difficult to identify a 'niche' for their operation in states with, for instance, already strong civil societies and parliaments.

[2] HRC, 'Resolution 16/21 Adopted by the HRC: Review of the Work and Functioning of the Human Rights Council' (2011) UN Doc A/HRC/RES/16/21. 16/21, passed in 2011, is the last time the modalities of the UPR formally changed. There have been statements made by successive HRC presidents on the UPR (in 2008, 2013 and 2022) but these do not have the effect of changing the formal process.

previous cycle. Additionally, states could be required to submit an appendix to their national reports which specifies, for each recommendation from the previous cycle, the status of implementation. Whatever approach is to be taken, there is value in agreeing set, consistent terminology for how states should describe the 'level' of implementation (for example, 'fully' or 'partially' implemented). With such measures the transparency of the process would be enhanced, and we might more concretely assess the UPR's impact in states going forward.

There are also practical implications in recognizing the UPR's potential to inform the work of states' governments, legislatures and judiciaries. Engagement with the UPR is more likely to occur if an actor perceives that it will advance their interests. This is pertinent for recommending states (and those advocating to their delegations) to bear in mind, as recommendations could be formulated more strategically to target and appeal to particular actors. Beyond thinking about whether recommendations are substantively specific ('SMART' – specific, measurable, achievable, relevant and time-bound), states should also consider who in the state may look to deploy the recommendation.[3]

This book also has specific implications for the study and practice of human rights in the UK. Primarily, the study provides a more complete picture of the role of international human rights law in the UK constitution. Beyond the regional (European) human rights system, which has received plenty of attention in the literature, there is a wider human rights framework that clearly (though discretely) affects each branch of the state. Considering this, there is scope for further, ongoing research on the UK's relationship with the UN human rights system. Equally, when teaching human rights, we should be ready to recognize the existence and role of the UN treaties and mechanisms so that future lawyers, policy makers and advocates can engage with them in their work. Certainly, capacity-building appears all the more necessary now as critique of the European Convention on Human Rights (ECHR) and talk of withdrawal from the treaty once again intensifies. It is not unforeseeable that domestic actors will want to look to the UN human rights treaties as an alternative means to legitimize their demands.

In revealing the ritualistic nature of the UK's practice at the UPR, this book should also act as a stimulus for the state, particularly the Government, to reassess its commitment to and compliance with the international human rights regime. If the UK is, as the Government suggests, fully committed to the UPR process, then there is work to be done to ensure that accepted

[3] UPR Info, 'A Guide for Recommending States at the UPR' (2015) https://upr-info.org/en/news/upr-info-publishes-first-guide-recommending-states-upr accessed 1 August 2025.

recommendations translate into improvements domestically. Findings presented in Chapter 3 suggest that, at present, this is not happening. This will in part be due to the various issues, explored in subsequent chapters, which hinder the engagement of the three branches of state with the process. Due to the present political climate, in which human rights are routinely cited as the problem (rather than the solution) to various societal issues, it is reasonable to expect little to change. More optimistically, international mechanisms like the UPR will continue to offer important tools and opportunities to those rights-receptive actors in the UK that will remain steadfast in their task to promote and protect human rights. Ongoing capacity-building for civil society to work with the UPR and to understand its potential will be imperative. For that purpose, it is hoped this book will be of some use.

Annexes

Table A.1: Thematic breakdown of the UK's UPR recommendations, cycles 1–4

UPR I (total recs 35)	% of total recommendations	UPR II (total recs 137)	% of total recommendations	UPR III (total recs 234)	% of total recommendations	UPR IV (total recs 331)	% of total recommendations
International instruments	31	International instruments	29	International instruments	35	International instruments	23
Rights of the child	26	Rights of the child	20	Rights of the child	20	Right of the child	17
Detention	17	Migrants	18	Racial discrimination	16	Racial discrimination	15
Migrants	14	Detention	15	Women's rights	14	Women's rights	12
Human rights and terrorism	11	Women's rights	13	Migrants	10	Labour rights	11
Torture and other CID	11	Labour rights	12	Labour rights	9	Migrants	10
Asylum seekers and refugees	9	Racial discrimination	9	Detention	6	Justice	9
International humanitarian law	9	Human rights and terrorism	8	Enforced disappearances	6	Asylumseekers and refugees	8
Labour rights	9	Torture and other CID	7	Minority rights	6	Discrimination	6
Racial discrimination	9	Treaty bodies	7	General	5	General	6
Other	6	Enforced disappearances	6	Trafficking	4	Right to health	5
Women's rights	6	Minority rights	5	Freedom of religion and belief	4	Sexual orientation and gender identity	5

Table A.1: Thematic breakdown of the UK's UPR recommendations, cycles 1–4 (continued)

UPR I (total recs 35)	% of total recommendations	UPR II (total recs 137)	% of total recommendations	UPR III (total recs 234)	% of total recommendations	UPR IV (total recs 331)	% of total recommendations
Civil and political rights – general	3	Other	5	Other	3	Disability rights	5
Economic, social and cultural rights – general	3	Freedom of religion and belief	4	Civil and political rights – general	3	Detention	5
Enforced disappearances	3	Trafficking	4	Asylum seekers and refugees	3	Trafficking	4
Freedom of opinion and expression	3	Justice	4	Right to health	3	Minority rights	4
Freedom of religion and belief	3	Asylum seekers and refugees	3	UPR process	3	Other	4
Poverty	3	Economic, social and cultural rights – General	3	Justice	2	Right to education	4
Sexual orientation and gender identity	3	International humanitarian law	3	Economic, social and cultural rights – general	2	Freedom of religion and belief	4
Upr process	3	Right to development	3	Indigenous peoples	2	Environment and human rights	3
		Right to education	3	Privacy	2	Enforced disappearances	3

(continued)

Table A.1: Thematic breakdown of the UK's UPR recommendations, cycles 1–4 (continued)

UPR I (total recs 35)	% of total recommendations	UPR II (total recs 137)	% of total recommendations	UPR III (total recs 234)	% of total recommendations	UPR IV (total recs 331)	% of total recommendations
		Special procedures	3	Business and human rights	1	International humanitarian law	
		Civil and political rights – general	2	Civil society	1	Human rights education and training	2
		Disability rights	2	Environment and human rights	1	Gender-based violence	2
		Human rights violations by state agents	1	Human rights education	1	Economic, social and cultural rights – general	2
		NHRIS	1	Public security	1	Poverty	2
		Poverty	1	Sexual orientation and gender identity	1	Human rights and terrorism	2
		Right to health	1	Torture and other CID	1	Treaty bodies	2
		Right to water and sanitation	1	Access to justice	1	Freedom of the press	1
		UPR process	1	Disability rights	1	Civil and political rights – general	1
		Business and human rights	1	International humanitarian law	1	Access to justice	1
		Freedom of opinion and expression	1	Poverty	1	Business and human rights	1

Table A.1: Thematic breakdown of the UK's UPR recommendations, cycles 1–4 (continued)

UPR I (total recs 35)	% of total recommendations	UPR II (total recs 137)	% of total recommendations	UPR III (total recs 234)	% of total recommendations	UPR IV (total recs 331)	% of total recommendations
		Freedom of the press	1	Statelessness and right to nationality	1	Sexual and reproductive rights	1
		General	1	Treaty bodies	1	Special procedures	1
		Human rights education and training	1	Freedom of opinion and expression	0	Right to housing	1
		Impunity	1	Freedom of the press	0	Civil society	0
		Privacy	1	Human rights and terrorism	0	Elections	0
		Right to housing	1	Human rights violations by state agents	0	Freedom of assembly	0
		Technical assistance and cooperation	1	Impunity	0	Freedom of association and peaceful assembly	0
				Right to development	0	Freedom of opinion and expression	0
				Right to education	0	National Human Rights Institution	0
				Right to land	0	Right to food	0

(continued)

Table A.1: Thematic breakdown of the UK's UPR recommendations, cycles 1–4 (continued)

UPR I (total recs 35)	% of total recommendations	UPR II (total recs 137)	% of total recommendations	UPR III (total recs 234)	% of total recommendations	UPR IV (total recs 331)	% of total recommendations
				Special procedures	0	Statelessness and the right to nationality	0
				Technical assistance	0	Indigenous peoples	0
						Privacy	0
						Rights for older people	0
						Torture and other CID	0

Note: For cycles 1–3, themes were identified using UPR Info's recommendation database. For cycle 4, as recommendations were not available on the UPR Info database, themes were allocated manually but using the same system as UPR Info.

Table A.2: The Equality and Human Rights Commission's progress assessment (UK third cycle UPR)

EHRC progress assessment	Human rights topic	Associated recommendations (relevant third cycle working group paragraph)	Total recs
Regression	Equality and human rights legal framework	134.10, 134.169, 134.41, 134.46, 134.1, 134.11, 134.12, 134.124, 134.125, 134.127, 134.13, 134.139, 134.14, 134.15, 134.16, 134.165, 134.17, 134.173, 134.178, 134.18, 134.19, 134.191, 134.2,134.20, 134.21, 134.211, 134.22, 134.23, 134.24, 134.25, 134.26, 134.27, 134.28, 134.29, 134.3, 134.30, 134.31, 134.32, 134.33, 134.34, 134.35, 134.36, 134.37, 134.38, 134.39, 134.4, 134.40, 134.42, 134.43, 134.44, 134.46, 134.47, 134.48, 134.49, 134.5, 134.50, 134.51, 134.52, 134.53, 134.56, 134.57, 134.58, 134.6, 134.60, 134.61, 134.62, 134.63, 134.64, 134.65, 134.66, 134.67, 134.68, 134.69, 134.7, 134.70, 134.71, 134.72, 134.73, 134.74, 134.75,134.76, 134.77, 134.78, 134.8, 134.83, 134.88, 134.9, 134.92	88
	Inclusive education	134.174.	1
	Adequate standard of living	134.164, 134.166, 134.168, 134.191, 134.192.	5
	Social care	N/A	0
	Criminal justice institutions	134.119, 134.137, 134.156, 134.158, 134.159, 134.160, 134.162, 134.163.	8
	Human rights abroad	134.127, 134.132, 134.133, 134.135, 134.153, 134.210, 134.212, 134.227, 134.80.	9
	Immigration	134.224, 134.121, 134.190, 134.213, 134.214, 134.215, 134.216, 134.217, 134.218, 134.219, 134.221, 134.222, 134.223, 134.225, 134.226, 134.27, 134.82.	17
	Policing	134.134, 134.27.	2
	Independent living	N/A	0
	Total		**130**

(continued)

Table A.2: The Equality and Human Rights Commission's progress assessment (UK third cycle UPR) (continued)

EHRC progress assessment	Human rights topic	Associated recommendations (relevant third cycle working group paragraph)	Total recs
No progress	Human rights education, trainings and awareness raising	134.101, 134.134, 134.98.	3
	International cooperation, including with human rights mechanisms	134.10, 134.41, 134.46, 134.54, 134.1, 134.11, 134.110, 134.12, 134.13, 134.14, 134.15, 134.155, 134.16, 134.17, 134.18, 134.19, 134.2, 134.20, 134.21, 134.22, 134.23, 134.24, 134.25, 134.26, 134.27, 134.28, 134.29, 134.3, 134.30, 134.31, 134.32, 134.33, 134.34, 134.35, 134.36, 134.37, 134.38, 134.39, 134.4, 134.40, 134.42, 134.43, 134.44, 134.46, 134.47, 134.48, 134.49, 134.5, 134.50, 134.51, 134.52, 134.53, 134.6, 134.7, 134.74, 134.8, 134.9.	57
	Access to healthcare	134.169, 134.224, 134.125, 134.166.	4
	Educational attainment	N/A	0
	Social security (welfare benefits)	134.167, 134.177, 134.164, 134.166, 134.192.	5
	Counter terrorism	134.128, 134.129, 134.130, 134.131, 134.62.	5
	Youth justice	134.203, 134.204, 134.205, 134.206, 134.207, 134.208	6
	Political and civic participation, including political representation	134.177, 134.161, 134.55, 134.63, 134.66, 134.74, 134.76, 134.86, 134.89.	9
	Total		**89**

Table A.2: The Equality and Human Rights Commission's progress assessment (UK third cycle UPR) (continued)

EHRC progress assessment	Human rights topic	Associated recommendations (relevant third cycle working group paragraph)	Total recs
Limited progress	Institutional, policy and economic frameworks	134.55, 134.59, 134.62, 134.79, 134.80, 134.81, 134.82, 134.83, 134.84, 134.87, 134.88, 134.89, 134.90, 134.91, 134.93, 134.94, 134.95, 134.96, 134.97, 134.98.	20
	Health outcomes and experiences	134.169.	1
	Mental health	N/A	0
	Reproductive and sexual health	134.170, 134.171, 134.172, 134.173.	4
	Harassment and bullying in schools	N/A	0
	School exclusions	N/A	0
	Human trafficking and modern slavery	134.138, 134.139, 134.140, 134.141, 134.142, 134.143, 134.144, 134.145, 134.146, 134.147, 134.220.	11
	Just and fair conditions at work	134.176, 134.177, 134.41, 134.175, 134.179, 134.40.	6
	Occupational segregation	N/A	0
	Housing	N/A	0
	Access to justice	134.1, 134.11, 134.12, 134.122, 134.13, 134.135, 134.138, 134.14, 134.153, 134.154, 134.156, 134.157, 134.16, 134.17, 134.18, 134.181, 134.19, 134.2, 134.20, 134.21, 134.227, 134.3, 134.7, 134.73, 134.9.	25

(continued)

Table A.2: The Equality and Human Rights Commission's progress assessment (UK third cycle UPR) (continued)

EHRC progress assessment	Human rights topic	Associated recommendations (relevant third cycle working group paragraph)	Total recs
	Hate crime	134.100, 134.101, 134.102, 134.103, 134.104, 134.105, 134.106, 134.107, 134.108, 134.109, 134.110, 134.111, 134.112, 134.113, 134.114, 134.115, 134.116, 134.117, 134.118, 134.119, 134.120, 134.121, 134.122, 134.123, 134.82, 134.85, 134.99.	27
	Mental health detention	N/A	0
	Violence against women and girls	134.186, 134.46, 134.138, 134.139, 134.142, 134.144, 134.145, 134.180, 134.181, 134.182, 134.183 134.184, 134.185, 134.187, 134.188, 134.43, 134.44, 134.46, 134.47, 134.48, 134.83.	21
	Violence, abuse and neglect, and child sexual exploitation	134.136, 134.186, 134.139, 134.140, 134.141, 134.143, 134.145, 134.146, 134.158, 134.159, 134.160, 134.193, 134.194, 134.195, 134.196, 134.197, 134.198, 134.199, 134.200, 134.201, 134.202, 134.42, 134.49, 134.50.	24
	Family life	134.152, 134.215, 134.222, 134.223.	4
	Privacy	134.150, 134.148, 134.149, 134.151.	4
	Total		**147**
Moderate progress	Data collection and recording	134.105, 134.106.	2
	Access to employment	134.209.	1
	Total		**3**
Sustained progress	N/A	N/A	0
	Total		**0**

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References to figures appear in *italic* type; those in **bold** type refer to tables.