

Title Achieving Universality: Challenges Posed by State Withdrawal and Non-cooperation at the UPR

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Achieving Universality: Challenges Posed by State Withdrawal and Non-cooperation at the UPR

Michael Lane¹ and Alice Storey²

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Abstract:

This chapter examines how the Universal Periodic Review (UPR) achieves universality both in theory and in practice. It has two primary aims. First, this chapter seeks to clarify how universality is reflected in the UPR. We argue that universality is not only reflected in the UPR's application to all states (universal coverage), as has been conventionally understood, but also in its review of all of these states' human rights obligations (universal basis), its inclusion of all states as reviewers (universal state participation), and in its inclusivity of stakeholders (universal stakeholder participation). Second, and with a focus on the UPR's universal coverage, this chapter highlights how universality breaks down when states fail to engage with the process. The UPR continues to be celebrated as having "100% participation" by both the UN and academics alike. Yet, we reveal how the UPR's universal coverage has been challenged on several occasions through two distinct forms of non-engagement that we refer to as 'non-cooperation' and 'withdrawal'. We draw upon various case studies to highlight how universality has in fact broken down and thus argue that claims about the UPR's success ought to be qualified. This research has important implications for how the UPR's universality is perceived, as well as for the UNHRC in how it approaches non-engagement.

Author Bios:

Dr Michael Lane is Senior Lecturer in Law at the University of Worcester, UK. Michael's research is concerned with the relationship between international human rights law and institutions, and domestic legal systems. He is particularly interested in the United Nations bodies, notably the Universal Periodic Review (UPR). Michael's recent monograph, *The Universal Periodic Review and the UK* (BUP 2026), analyses the impact of the UPR process through a case study of the UK. It advances a dual-perspective assessment of the UPR: the 'external' perspective, which focuses on a state's practice at the UPR, and the 'internal' perspective, which examines the influence of the UPR on the executive, legislature and judiciary.

Dr Alice Storey is Associate Professor of Human Rights at Birmingham City University. Her research focuses on the UN's Universal Periodic Review (UPR), specifically examining how States and civil society engage with international human rights, with a focus on women's rights and the abolition of the death penalty. She is the Academic Lead of the UPR Project at BCU, shortlisted for a Times Higher Education Award in 2021, which engages in practice with the UPR mechanism, as well as supporting civil society organisations and domestic governments. She regularly contributes to public engagement, including advising the UK Parliament's Joint Committee on Human Rights in 2023 and 2025 regarding the UK's UPR. Alice is also co-founder of the UPR Academic Network, an international group of scholars working on the UPR.

Keyword/Terms for Index:

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¹ Senior Lecturer in Law, University of Worcester, UK.

² Associate Professor of Human Rights, Birmingham City University, UK.

1. Introduction

A key principle of the Universal Periodic Review (UPR) is universality. The UPR applies to all UN member states and all of their human rights obligations, making it an inclusive process which aims to place states on an equal footing and prevent selectivity. In practice, the UPR has largely lived up to these grand ambitions. The Office of the High Commissioner for Human Rights (OHCHR) proudly claims that “[i]n the fourth cycle, the UPR continues to maintain a record 100% participation of States under review”.³ Equally, the range of human rights issues addressed at the UPR has been incredibly broad. Globally, the UPR is endorsed by (almost) all states as an important process for peer-reviewing one another’s human rights situations. It is increasingly apparent, however, that state cooperation with the UPR is fragile. Whilst the mantra of “100% participation” continues to be repeated by the OHCHR and academics alike, the reality is that this participation has been and continues to be either inconsistent or in some cases absent. In theory, the UPR achieves universality but in practice there have been significant challenges. These include previous attempts to boycott the UPR, as with Israel in the second cycle, or more recently the complete withdrawal of the United States of America in the fourth cycle.

This chapter offers a reflection on how universality is achieved in theory and in practice by the UPR. Section one provides the necessary foundation for this discussion and defines for present purposes what universality is understood to mean in the context of human rights. Section two then explains how universality informed the UPR’s development and is reflected in the mechanism’s modalities. We suggest that universality is reflected in the UPR not just in its universal coverage, but also in its inclusion of all states and other stakeholders in the review process. In this respect, it aims to be an all-inclusive process. Section three, which develops this chapter’s primary contribution, focuses on how universality has been achieved or undermined in practice with a focus on the engagement of states under review. We draw particular attention to when states have failed, wholly or partly, to engage with the UPR process as required by UNHRC resolutions. We advance the literature by arguing that engagement is not a binary concept (a state engages, or it does not) but operates on a spectrum and can take different forms and have different effects.⁴ Specifically, we identify two forms of non-

³ Office of the United Nations High Commissioner for Human Rights, ‘UPR Basic Facts’ <<https://www.ohchr.org/en/hr-bodies/upr/basic-facts>> visited on 28 July 2026.

⁴ ‘Cooperation’ and ‘engagement’ appear to be used synonymously in Resolution 5/1 which establishes the UPR’s modalities, see UNHRC, *Institution-building of the United Nations Human Rights Council*, 18th June 2007 (UN Doc A/HRC/5/1) Annex, paras. 4(f) and 38. However, ‘non-cooperation’ is the term used in UNHRC decisions.

engagement: non-cooperation, where a state remains formally within the UPR process but does not fulfil all of its procedural obligations in a given cycle; and withdrawal, whereby a state fails to engage entirely with a cycle of the UPR. By revealing the complex nature of non-engagement and showing the different ways in which universality can break down, this chapter constitutes an important first step in identifying solutions to address and prevent the deterioration of universality at the UPR.

2. Universality and International Human Rights

Universality is a core concept of international human rights law, underpinning essentially all of the post-war international instruments and forming the backbone of various mechanisms including, as we will see, the UPR.⁵ In its purest form, universality entails that human rights are universal rights, “held by every human being, everywhere”.⁶ Universality is closely tied to and reinforced by other principles. Equality contributes to universality by requiring that human rights apply to all human beings, irrespective of their status or characteristics. Likewise, inalienability – the notion that rights cannot be removed, sold or taken away – ensures the permanence of human rights. Indivisibility, too, requires that states cannot “pick and choose among rights”,⁷ and thus undermine their universal application. Together, these ideas support universality: the idea that rights apply to everyone, everywhere, at all times.

The roots of universality can be found in the natural rights movements of the seventeenth century.⁸ Locke’s work, in particular, facilitated the gradual diminishing of the feudal and aristocratic hierarchies that perpetuated in the West and informed the early claims to universality in the US and French constitutions.⁹ As far as international human rights law is concerned, it was the Universal Declaration of Human Rights (UDHR) which marked both the birth of the contemporary human rights movement and the emergence of a global consensus as

The OHCHR also uses the term ‘participation’ e.g. on its websites. For present purposes, both cooperation and engagement are used interchangeably, though the lack of clarity around these terms is an issue that the authors reflect upon in their concluding remarks.

⁵ UNHRC, ‘Resolution 5/1’, *supra* note 4, Annex, para. 3(a).

⁶ J. Donnelly, ‘Human Rights’ in J. S. Dryzek, B. Honig and A. Phillips (eds.), *The Oxford Handbook of Political Theory* (1st ed., Oxford University Press, Oxford, 2008) p. 601.

⁷ J. W. Nickel, ‘Rethinking Indivisibility: Towards A Theory of Supporting Relations between Human Rights’, 30:4 *Human Rights Quarterly* (2008) p. 984.

⁸ Though, as Donnelly notes, “more universalistic ethical and religious doctrines attained greater prominence in Hellenistic Greece and Rome”, see Donnelly, ‘Human Rights’, *supra* note 6, p. 607.

⁹ L. Henkin, ‘The Universality of the Concept of Human Rights’, 506 *The Annals of the American Academy of Political and Social Science* (1989) p. 10.

to certain universal values.¹⁰ Since then, universality has been pervasive, and all subsequent international and regional human rights treaties reaffirm the UDHR and incorporate language to the effect of universality. Both the ICESCR and ICCPR recall the UDHR and contain non-discrimination clauses,¹¹ reinforcing the notion that the rights they contained were applicable to all persons, irrespective of their status or characteristics. Treaties which speak to the rights of particular groups, such as the UN Convention on the Rights of the Child, also support universality by increasing the inclusivity of human rights protection and covering a “varied range of human situations”.¹² The Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in 1993, repeatedly and “almost to the point of redundancy” reiterated universality.¹³ That there could be a consensus as to the universality of human rights, decades after the UDHR, is considered critical success.¹⁴ More recently, in 2015 the Agenda for Sustainable Development adopted by the UN General Assembly (UNGA) recalled “universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination”.¹⁵ Universality, then, is a key concept and component of the modern human rights movement which has and continues to inform the development of international human rights law and mechanisms.

It is pertinent to recognise, even if only briefly, that universality is not free from challenge. Of note is the concept of relativism: the idea that rights are dependent on, *inter alia*, a given culture, society, religion, or otherwise. As with universality, relativism has different dimensions and schools of thought, and has been explored through cultural, ethical, epistemological, linguistic, and historical lenses.¹⁶ In the context of international human rights law, it is typically *cultural* relativism – the idea that rights are (and/or ought to be) dependent on a given culture – that is the most commonly cited challenge universalism. At one extreme, “strong” cultural relativism proposes that there are no universal human rights, whereas “weak”

¹⁰ E. Brems, *Human Rights: Universality and Diversity* (Martinus Nijhoff Publishers, The Hague, 2001) pp. 20–23.

¹¹ Reflected in both conventions in art 2.

¹² Brems, *supra* note 10, p. 21.

¹³ C. M. Cerna, ‘Universality of Human Rights and Cultural Diversity: Implementation of Human Rights in Different Socio-Cultural Contexts’, 16 *Human Rights Quarterly* (1994) p. 742.

¹⁴ *ibid.*

¹⁵ UNGA, *Transforming our world: the 2030 Agenda for Sustainable Development*, 21 October 2015 (UN Doc A/RES/70/1) para. 8.

¹⁶ C. C. Joyner and J. C. Dettling, ‘Bridging the Cultural Chasm: Cultural Relativism and the Future of International Law’, 20:2 *California Western International Law Journal* (1990) p. 275. Also see C. Good, ‘Human Rights and Relativism’ 19:1 *Macalester Journal of Philosophy* (2010) p. 27.

relativism holds that whilst values arise from culture, this does not mean that there cannot be overlap.¹⁷

It is not necessary for present purposes to form a view as to which approach is ‘correct’ or more desirable on a theoretical level. However, at least in practice it appears clear that universality has been achieved in several respects. Notably, Jack Donnelly elaborates three “senses” in which human rights can be considered universal.¹⁸ First, human rights are universal in that they have been accepted by almost all states as being binding in international law (international legal universality). As to what rights are binding, specifically, states of course have different obligations, but all states have ratified at least some of the nine core human rights treaties and there is near global ratification of some treaties including the CEDAW and the CRC. States are also bound by a considerable body of customary international human rights law.¹⁹ Second, there is universality in the sense that there is convergence within and between all civilizations as to the moral equality of human beings (overlapping consensus universality). The very fact that we observe international legal universality is because collectively states have achieved a consensus in at least some areas of human rights such that they should be protected in international law. And finally, all states recognise human rights as providing an important function and protection from threats to human dignity (functional universality). As Donnelly explains, “[h]uman rights today remain the only proven effective means to assure human dignity in societies dominated by markets and states”.²⁰

There is also something to be said about universality in terms of international accountability: all states accept that their human rights situations can be subject to some form of oversight by international bodies. The nature and extent of that monitoring is uneven and varies by region and state but broadly speaking, all states are now subject to mechanisms of accountability for human rights. These include mechanisms for reviewing general compliance with international human rights and those for addressing violations against individuals or groups. On the former, compliance with international human rights law is monitored periodically by UN treaty bodies, the special procedures, various regional bodies (e.g., the Council of Europe’s Committee on the Prevention of Torture) and, of course, the UPR. All of

¹⁷ Good, *ibid.*

¹⁸ J. Donnelly, *Universal Human Rights in Theory and Practice* (3rd ed., Cornell University Press, New York, 2013).

¹⁹ W. A. Schabas, *The Customary International Law of Human Rights* (1st ed., Oxford University Press, Oxford, 2021).

²⁰ Donnelly, ‘Universal Human Rights’, *supra* note 18, p. 97.

these facilitate state accountability and contribute to their compliance with international law. Specific violations against groups or individuals, on the other hand, are addressed by regional human rights courts (e.g. the European Court of Human Rights), UN treaty bodies (assuming the state has accepted, where necessary, petitions to the individual complaints procedures), or the often-forgotten UN Complaints Mechanism. Despite being both underused and poorly understood, it remains the only universal mechanism to address cases of human rights violations: open to all individuals alleging violations of all human rights.²¹ It is not controversial, then, to say that there is (and has been for some time) a “*droit de regard*”, a rule of customary international law, enabling the UN to monitor and respond to states’ human rights situations.²² Thus, in addition to there being international legal universality, with all states recognising the existence of binding rules of international human rights law, we can also observe universality in the sense of accountability: all states accept that they can be monitored and held to account for their human rights situations.

This chapter further contributes to our understanding of universality in practice by showing the extent to and ways in which it is supported by the UPR. We examine first how the UPR aims to achieve universality by revisiting the debates that took place during its development and the subsequent agreement of its modalities, established in the annex to HRC Resolution 5/1. Second, we reflect on the actual practice of states and the operation of the UPR to reveal in fact how universality has been achieved.

3. Reflecting Universality in the UPR

Just as universality has informed the development of international human rights law, so too did it underpin the creation of the UPR. Whilst the clue is in its name, how universality is facilitated by the UPR in its modalities is arguably more complex than has been understood previously.²³ Specifically, universality is reflected in the UPR in at least four notable ways.

The two and perhaps most obvious ways is that the UPR covers (1) all states (universal coverage) and (2) all of their human rights obligations (universal basis). Both can be seen in the former-Secretary General Kofi Annan’s vision for the UPR in the addendum to his report *In Larger Freedom*: “Its main task would be to evaluate the fulfilment by *all* States of *all* their

²¹ E. Domínguez-Redondo and E. Tistounet, ‘Hard to Kill: The UN Complaint Procedure Turns 50’, 25: *X Journal of Human Rights* (2026) p. 216.

²² Meaning a ‘right to inspect’, see B. Simma and P. Alston, ‘The Sources of Human Rights Law: Custom, Jus Cogens, and General Principles’, 12:1 *The Australian Year Book of International Law* (1992) p. 98.

²³ Previous works include, e.g. G. H. Patel, *Women and International Human Rights Law: Universal Periodic Review in Practice* (Routledge, Abingdon, 2020).

human rights obligations. This would give concrete expression to the principle that *human rights are universal and indivisible* . . . It should touch upon the *entire spectrum of human rights*, namely, civil, political, economic, social and cultural rights . . .”²⁴

UNGA Resolution 60/251, which called upon the UNHRC to establish the UPR, reiterated Annan’s sentiments and clarified that the review should ensure “universality of coverage and equal treatment with respect to *all* States” and affirmed a broad basis of review including states “human rights obligations and commitments”.²⁵ Accounts of the development of the UPR between 2006 – 2007 reveal considerable disagreements between states as to the proper role and function of the mechanism,²⁶ but archives of the UPR Working Group show that there was at least agreement as to the coverage and basis of the review.²⁷ That the process should apply to all states was in fact reemphasised throughout debates, particularly by states that sought to avoid the politicisation and selectivity that had plagued the UNHRC’s predecessor. Likewise, the broad basis of review was agreeable with the only real points of contention being how the UPR could avoid duplicating the work of other mechanisms, and whether states ought to be reviewed against international humanitarian law (IHL).²⁸ Unsurprisingly then, the agreed modalities of the UPR, set out in the annex to UNHRC Resolution 5/1, reflected this consensus. What emerged was a process that for the most part mirrors Annan’s vision at least in terms of universality. The UPR is unique for this reason. Whilst other universal human rights mechanisms do exist, as discussed above, the UPR is the only universal monitoring mechanism with the mandate to routinely and regularly review *all* states against *all* their human rights obligations. That the UPR has largely achieved this in practice too is further testament to its uniqueness, notwithstanding the cases discussed in section four below.

Beyond the UPR’s ‘universal coverage’ and ‘universal basis’, universality is also reflected in the fact that the UPR entitles all states to act as reviewers (universal state

²⁴ UNGA, Addendum to *In Larger Freedom: Towards Development, Security and Human Rights for All: Report of the Secretary-General*, 23 May 2005 (UN Doc A/59/2005/Add.1) paras. 6–8. *Emphasis added*.

²⁵ UNGA, *Human Rights Council*, 3 April 2006 (UN Doc A/RES/60/251) para. 5(e). *Emphasis added*.

²⁶ F. D. Gaer, ‘A Voice Not an Echo: Universal Periodic Review and the UN Treaty Body System’ 7:1 *Human Rights Law Review* (2007) p. 109.

²⁷ See records of the UPR Working Group (2006 – 2007) held on the HRC extranet <<https://extranet2.ohchr.org>> visited on 7 August 2026. Records also on file with authors. Note: the UPR Working Group should not be confused with the UNHRC working groups that undertake states reviews.

²⁸ UNHRC, *Second Session of the Intersession Open-Ended Intergovernmental Working Group to Develop the Modalities of the Universal Periodic Review Mechanism Established Pursuant to Human Rights Council Decision 1/103: Summary of the Discussion on Universal Periodic Review Prepared by the Secretariat*, 13 March 2007 (UN Doc A/HRC/4/CRP.3) paras. 12–19.

participation). During the mechanism's development states were divided as to who would undertake the reviews, for instance whether only UNHRC members would participate, or whether all UN states – members and observers – ought to be involved.²⁹ In the end, the latter proposal was favoured, and the UPR therefore entitles all states, whether members of the UNHRC or not, to engage in the reviews of other countries.³⁰ This aspect of the UPR's universality is less highlighted in the literature, but it is arguably just as important as its universal coverage. Inclusivity of state participation further emphasises the universality of the UPR by allowing all states, irrespective of their size, geopolitical status or HRC membership, to enter into an equal dialogue with their peers. Also, through this dialogue, states construct and contest the meaning of human rights and may inadvertently reveal consensuses as to what human rights are universal. In turn, the UPR could create or at least clarify the content or interpretation of customary international law.³¹ Or, through this dialogue, state governments may either intentionally or inadvertently make promises capable of creating legitimate expectations which might be enforced domestically.³² It is relatively rare that a state will object to certain human rights issues being raised by other states during the interactive dialogue, although this does happen. For example, some states will note UPR recommendations on the basis that they infringe on a state's sovereignty.³³

The fourth way in which universality is reflected in the UPR is in its inclusivity of stakeholders (universal stakeholder participation). That a wide range of stakeholders can be involved in the UPR further facilitates universality by bringing together diverse perspectives on states' human rights situations. As with the inclusion of states in the review process, how and whether certain stakeholders ought to be involved was contested during the UPR's development. This was particularly the case for non-state actors such as civil society organisations (CSOs). Some CSOs that participated in the UPR Working Group, such as the International Commission of Jurists (ICJ), naturally advocated for CSOs to be involved

²⁹ UNHRC, Intersessional open-ended intergovernmental working group to develop the modalities of the universal periodic review mechanism established pursuant to Human Rights Council decision 1/103, 30 November 2006 (UN Doc A/HRC/3/CRP.1) para. 54.

³⁰ UNHRC, 'Resolution 5/1', *supra* note 4, Annex, paras. 18(a) & (b).

³¹ See Schabas, *supra* note 19, ch. 2; Frederick Cowell, 'Understanding the Legal Status of Universal Periodic Review Recommendations' 7:1 *Cambridge International Law Journal* (2018) p. 164.

³² On the role of UPR recommendations in common law domestic courts, see M. Lane and F. Cowell, 'Using Universal Periodic Review Recommendations in UK Courts' 29:2 *Judicial Review* (2024) p. 119; M. Lane, *The Universal Periodic Review and the UK: State Practice and Constitutional Actors* (Bristol University Press, Bristol, 2026) ch. 7.

³³ For example, China RWG Cycle Four Addendum para 29-30;

throughout the process, including during states' reviews.³⁴ A dialogue between states only, the ICJ suggested, "might lead again to political tensions, or be limited to political imperatives, leaving the substantive issues aside".³⁵ Recommendations for a fully inclusive process were successful in part, as it was agreed that the UPR would "[e]nsure the participation of all relevant stakeholders, including non-governmental organizations and national human rights institutions".³⁶ However, during the interactive dialogues, stakeholders are entitled to attend, but not participate.³⁷ Only at the adoption of states reports, during the UNHRC plenary, are they entitled to make 'general comments'.³⁸ Notwithstanding this compromise, stakeholders, including but not limited to CSOs, can participate in other ways for instance by engaging in consultations in preparation for the states national reports, submitting their own reports for inclusion in the 'stakeholder summary', and by lobbying states.³⁹ The classes of stakeholders called upon to engage with the UPR have also been progressively widened to include, for instance, parliaments⁴⁰ and judges.⁴¹ In creating an inclusive environment for stakeholders, universality is further strengthened by ensuring that all persons have an opportunity, whether individually or through CSOs, to inform the dialogue on states' human rights situations.

4. The Challenge of State (Non)Engagement: When Universal Coverage Breaks Down

Though each of these forms of universality are crucial, it is the UPR's universal coverage – that it reviews all states – which is arguably the UPR's defining feature and is what we focus on here. At the time of writing, the OHCHR's website currently says that "the UPR continues to maintain a record 100% participation of States under review",⁴² a point which has been

³⁴ International Commission of Jurists, *The Universal Periodic Review of the Human Rights Council* (Submitted for the UPR Working Group, 15 August 2006) pp. 4–5. Available via HRC Extranet <<https://extranet2.ohchr.org>> visited 7 August 2026. Also on file with authors.

³⁵ International Commission of Jurists, *ICJ Position Paper on the Mechanism of the Universal Periodic Review of the United Nations Human Rights Council* (Submitted for the UPR Working Group, May 2007) pg. 2. Available via HRC Extranet <<https://extranet2.ohchr.org>> visited 7 August 2026. Also on file with authors.

³⁶ UNHRC, 'Resolution 5/1', *supra* note 4, Annex, para. 3(m).

³⁷ *ibid.*, Annex, para. 18(c).

³⁸ *ibid.*, Annex, para. 31.

³⁹ The 'pre-sessions', organised by UPR Info, are a particularly notable space for this, see UPR Info, *Pre-sessions*, <<https://upr-info.org/en/presessions>> visited 7 August 2026.

⁴⁰ UNHRC, *Contribution of Parliaments to the Work of the Human Rights Council and Its Universal Periodic Review*, 13 July 2017 (UN Doc A/HRC/RES/25/29).

⁴¹ 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>> visited 7 August 2026.

⁴² Office of the United Nations High Commissioner for Human Rights, 'UPR Basic Facts' <<https://www.ohchr.org/en/hr-bodies/upr/basic-facts>> accessed 28 July 2026

repeated in the academic literature.⁴³ Existing work has often assumed this form of universality as a settled institutional achievement. Whereas in fact this statistic oversimplifies the varied and complex nature of state engagement, and overlooks the practice of certain states which, as we explore next, certainly challenges any suggestion of ‘100% participation’. Specifically, in this section we examine how the UPR’s universality has been challenged through two distinct forms of non-engagement that we refer to as ‘non-cooperation’ and ‘withdrawal’. This is not an exhaustive account. Rather, the aim is to show how non-engagement can take different forms and have different effects, in order to understand how the UPR’s universal coverage can break down, and how the subsequent impact can be minimised. This has important implications for how we view the success of the UPR and allows us to reflect on how the UNHRC has dealt with non-engagement to date.

4.1 Non-cooperation

Non-cooperation is used here to describe instances where a state remains formally within the UPR process but does not fulfil all of its procedural obligations. We consider these obligations to include, as a minimum, those reflected in UNHRC Resolution 5/1 which sets out the modalities of the UPR. Although the UPR process is well known, its modalities and the corresponding responsibilities of states are briefly summarised below for completeness..⁴⁴

A cycle of the UPR includes four distinct phases: 1. preparation for the review, for which the state should submit a national report following a broad consultation with stakeholders; 2. the review by the UNHRC working group, taking the form of an interactive dialogue, which the state should attend and receive recommendations from other UN Member States; 3. post-review, during which the state should formally respond to each recommendation, with the outcome then adopted by the UNHRC; and 4. implementation, when the state is expected to implement supported recommendations.

Non-cooperation may take various forms ranging from non-submission of a report, to declining to attend the adoption of the review. Importantly, we are only concerned with the state’s engagement with the *process*, not necessarily the quality or substance of its engagement

⁴³ This includes research published by the authors, e.g., Alice Storey, ‘Improving Recommendations from the UN’s Universal Periodic Review: A Case Study on Domestic Abuse in the UK’ (2023) 35 *Pace International Law Review* 193, 198; M. Lane, ‘The Universal Periodic Review: A Catalyst for Domestic Mobilisation’ 40(4) *Nordic Journal of Human Rights* (2022) p. 509.

⁴⁴ For an overview see D. Etone, A. Nazir and A. Storey, ‘Introduction’ and K. McNeilly, ‘The Universal Periodic Review as an Evolving Process: Examining the Path of Development’ both in D. Etone, A. Nazir and A. Storey (eds), *Human Rights and the UN Universal Periodic Review Mechanism: A Research Companion* (Routledge, Abingdon, 2024).

(for instance, the extent that it has implemented its recommendations). Non-cooperation can happen either because of exceptional circumstances, or because the state intentionally boycotts part of the process.

4.1.1. Exceptional circumstances

Looking first at non-cooperation due to exceptional circumstances, this has happened on several occasions, each for slightly different reasons. One is where non-cooperation is due to a lack of capacity on the part of the state. For instance, in 2008, Cabo Verde did not submit its national report.⁴⁵ However, as both China and the UK identified during its review,⁴⁶ this was owing to capacity issues and, given that this was very early in the first UPR cycle, understandable for small states. Similarly, in 2009, Comoros also did not submit its national report, although their oral presentation has been published on the OHCHR's UPR webpage in French only.⁴⁷ Both states still attended the working group interactive dialogue in cycle one,⁴⁸ and have since submitted national reports for cycles two, three, and four.

Non-cooperation may also occur where a state's political circumstances are such where engagement with the UPR is not possible. For instance, in the case of Myanmar, despite engaging with the pre-reporting stage of the third cycle,⁴⁹ the military coup which started on 1 February 2021 meant that the review cycle was not completed.⁵⁰ The UNHRC "repeatedly postponed adoption of the third cycle outcome report, awaiting the General Assembly's decision on representation"⁵¹ as it was unclear whose government would be 'adopting' the outcome of the review on behalf of Myanmar. This impasse has since been extended to Myanmar's fourth cycle: at its sixty-second session in July 2026, the UNHRC decided that Myanmar's next review "shall take place as soon as possible following a decision by the General Assembly on the question of the credentials pertaining to the representatives of

⁴⁵ OHCHR, *Universal Periodic Review – Cabo Verde*, <<https://www.ohchr.org/en/hr-bodies/upr/cv-index>> visited 28 July 2026.

⁴⁶ UNHRC, *Report of the Working Group on the Universal Periodic Review: Cape Verde*, 12 January 2009 (UN Doc A/HRC/10/81).

⁴⁷ OHCHR, *Universal Periodic Review – Comoros*, <<https://www.ohchr.org/en/hr-bodies/upr/km-index>> visited 28 July 2026.

⁴⁸ R. Smith, 'A Review of African States in the First Cycle of the UN Human Rights Council's Universal Periodic Review' 14 *African Human Rights Law Journal* (2014) p. 361.

⁴⁹ UNHRC, *National Report – Myanmar*, 2 November 2020 (UN Doc A/HRC/WG.6/37/MMR/1).

⁵⁰ UPR Info, *Revised Timeline for Myanmar's Fourth UPR Cycle*, 5 June 2025, <<https://upr-info.org/en/news/revised-timeline-myanmars-fourth-upr-cycle>> visited 28 July 2026.

⁵¹ *ibid.*

Myanmar to the General Assembly, taking into account the normal UPR timelines required to prepare the review”.⁵²

Since the coup, the General Assembly’s Credentials Committee has annually received competing submissions from the National Unity Government and the military authorities, and has, in each session since 2021 including as recently as November 2025, deferred a ruling instead of resolving the dispute.⁵³ The practical effect is that Myanmar’s UPR participation is not withdrawn but suspended indefinitely. No date has been set for the outstanding review, and the OHCHR is not accepting stakeholder contributions for cycle four in the meantime.⁵⁴ Practically, this means that Myanmar will not be reviewed at all during cycle four and, with the cycle three adoption still outstanding, Myanmar will not have had its human rights record scrutinised by the UPR since the cycle three review in January 2021. Myanmar’s case therefore demonstrates a form of non-cooperation distinct from non-submission of a report, in which a state’s initial engagement with the mechanism is suspended by a jurisdictional question that lies outside of the UPR itself.

International conflict can also lead to states deferring their reviews. Due to the ongoing war, Ukraine’s fourth cycle review was postponed from its originally scheduled slot in early 2023 to the near-end of the fourth cycle in January 2027.⁵⁵ Unlike the other cases considered here, this postponement was granted at Ukraine’s own request, in recognition of the “current exceptional circumstances” arising from Russia’s invasion and the martial law consequently in force.⁵⁶ The scale of the extension granted (effectively the maximum deferral available within the existing cycle) shows that, in certain circumstances, non-cooperation can reflect the flexibility of the UPR process when required. A state may seek, and be granted, a deferral in recognition of a genuine inability to engage, without any suggestion that its underlying commitment to the process is in doubt.

In the cases considered above, the state has not intentionally or purposefully disengaged from the UPR, but rather their individual circumstances have rendered cooperation either

⁵² UNHRC, *4th UPR Cycle: Contributions and Participation of “Other Stakeholders” in the UPR*, <<https://www.ohchr.org/en/hr-bodies/upr/ngos-nhris>> visited 28 July 2026.

⁵³ UNGA, *Report of the Credentials Committee*, 25 November 2025, (UN Doc A/80/547) paras. 8, 10.

⁵⁴ *ibid.*

⁵⁵ OHCHR, *Universal Periodic Review Working Group to Examine Human Rights Records of 13 States at its Forty-Second Session from 23 January to 3 February 2023*, 18 January 2023, <www.ohchr.org/en/press-releases/2023/01/universal-periodic-review-working-group-examine-human-rights-records-13> visited 28 July 2026.

⁵⁶ *ibid.*

extremely difficult or impossible. Because they are isolated anomalies rather than evidence of a broader pattern they have attracted little analysis. Nevertheless, these cases are strictly speaking instances of non-cooperation which affect the UPR's universal coverage. The case of Myanmar, in particular, means that the claim of 100% participation, at least for the third cycle, ought to be qualified as the review cycle was not completed. Going forward, more attention ought to be given to cases such as this so that we can more accurately portray the UPR's universality.

4.1.2 Intentional boycotting

These cases can be contrasted with those situations whereby states intentionally boycott part of the process. Israel's cycle two review was the first instance of this in 2012. Following UNHRC Resolution 19/17 in 2012 which mandated an independent fact-finding mission on Israeli settlements, Israel suspended its engagement with the UNHRC and OHCHR in March 2012, citing bias and unfair treatment.⁵⁷ Israel's cycle two review was subsequently postponed in 2013, as the delegation failed to appear before the Working Group on its scheduled date of 29 January 2013, the first such boycott by any state in the UPR's history.⁵⁸ Only after several months of diplomatic efforts, and a letter from its Ambassador reaffirming an intention to re-engage, did Israel present itself for a rescheduled review on 29 October 2013.⁵⁹ Notably, however, Israel also did not send a delegation to attend the adoption of its UPR by the UNHRC in March 2014, due to a "labour strike at the Ministry of Foreign Affairs".⁶⁰ Instead, Israel delivered a letter containing its views which were read by the President of the UNHRC, meaning the outcome could be adopted. Similarly, for the third cycle, whilst Israel engaged fully in the cycle three Working Group of January 2018, receiving 240 recommendations,⁶¹ it informed the UNHRC President that it would not be present in the room when the outcome was considered for adoption on 29 June 2018.⁶² Unlike in 2014, however, Israel did not give

⁵⁷ UNHRC, *Draft Report of the Working Group on the Universal Periodic Review: Israel*, 1 November 2013 (UN Doc A/HRC/WG.6/17/L.12).

⁵⁸ Geneva International Centre for Justice, *Israel's Universal Periodic Review*, <<https://www.gicj.org/conferences-meetings/upr-sessions/294-israels-universal-periodic-review>> visited 28 July 2026.

⁵⁹ OHCHR, *Universal Periodic Review – Israel*, <<https://www.ohchr.org/en/hr-bodies/upr/il-index>> visited 28 July 2026.

⁶⁰ UNHRC, Report of the Human Rights Council on its twenty-fifth session, 29 December 2021 (UN Doc A/HRC/25/2) para 966.

⁶¹ UNHRC, *Draft Report of the Working Group on the Universal Periodic Review: Israel*, 25 January 2018 (UN Doc A/HRC/WG.6/29/L.12).

⁶² United Nations, *Human Rights Council Adopts Universal Periodic Review Outcome of Israel – Press Release (Excerpts)*, 29 June 2018, <www.un.org/unispal/document/human-rights-council-adopts-universal-periodic-review-outcome-of-israel-press-release-excerpts> visited 28 July 2026.

reasons for its non-attendance.⁶³ As Israel had already submitted its position on the recommendations by addendum, accepting 70 and noting 170 of the 240 it ultimately received, the UNHRC nevertheless proceeded to adopt the outcome in its absence.⁶⁴ Israel's reviews have therefore exhibited characteristics of intentional boycotting, as well as evidence of exceptional circumstances that have interfered with its ability to engage fully with the process. But in both cycles, and despite these interruptions, the review cycles were in the end completed.

A more recent example is that of Nicaragua in 2025, which declined to attend the adoption of its fourth cycle outcome report.⁶⁵ Nicaragua had participated in its fourth cycle Working Group session in November 2024, submitting a national report in advance and delivering its remarks during the interactive dialogue by pre-recorded video, after which Nicaragua received 279 recommendations from 88 states.⁶⁶ On 27 February 2025, however, after the report of the Group of Experts on Human Rights in Nicaragua was presented, Nicaragua announced its withdrawal from the UNHRC alongside disengagement from several other UN bodies.⁶⁷ It subsequently failed to submit its position on the recommendations and did not attend the adoption scheduled for 26 March 2025, so no decision was taken on which recommendations it supported or noted.⁶⁸ This appears distinct from Israel's absence at the adoption of its reviews in 2014 and 2018, as Israel did not withhold its position on the recommendations, leaving the UNHRC able to proceed and formally adopt the outcome in absentia. Here, however, Nicaragua's review remains incomplete. Rather than proceed without Nicaragua's input, the UNHRC postponed the adoption of its review.⁶⁹ When Nicaragua again failed to attend, the UNHRC postponed adoption a second time, repeating its call for Nicaragua to resume cooperation and leaving open the possibility of earlier scheduling should it re-engage.⁷⁰ At the time of writing, Nicaragua's fourth-cycle outcome report remains unadopted.

⁶³ UNHRC, Report of the Human Rights Council on its thirty-eighth session, 16 December 2020 (UN Doc A/HRC/38/2) para 761.

⁶⁴ *ibid.*

⁶⁵ International Service for Human Rights, *Organisations Denounce Nicaragua's Withdrawal from Human Rights Council, Absence from Universal Periodic Review*, 26 March 2025, <<https://ishr.ch/latest-updates/nicaragua-organisations-speak-out-against-the-states-decision-to-withdraw-from-the-human-rights-council-and-absent-itself-from-the-universal-periodic-review/>> visited 28 July 2026.

⁶⁶ UPR Info, *HRC Decision Asks: Nicaragua, Come Back*, 14 October 2025, <<https://upr-info.org/en/news/hrc-decision-asks-nicaragua-come-back>> accessed 28 July 2026.

⁶⁷ International Service for Human Rights, *supra* note 65.

⁶⁸ *ibid.*

⁶⁹ UNHRC, *Report of the Human Rights Council on its Fifty-eighth Session*, 11 July 2025 (UN Doc A/HRC/58/2) paras 7–9.

⁷⁰ UNHRC, *Non-cooperation of a State under review with the universal periodic review mechanism (Decision)*, 3 October 2025 (UN Doc A/HRC/60/L.62).

In all of these cases of non-cooperation, the states have sought to engage at least partly with the UPR. On one hand, it could be argued that these instances of non-cooperation do not impact upon the UPR's universal coverage as there has been *some* engagement from the states. However, if we continue to repeat that the UPR retains '100% participation', this is to overlook cases where states, such as Nicaragua, have clearly declined to engage with the process. To categorise such cases as 'participation' greatly reduces what the term means. Even in the cases of exceptional circumstances, discussed above, the fact is that engagement has been interrupted and this ought to be properly reflected in claims about the UPR's universality.

4.2 *Withdrawal*

Arguably the greatest threat to the UPR's universality, however, is the case of the USA which is the first case of withdrawal – the failure to engage *entirely* with a review cycle. In August 2025, the USA announced its withdrawal from its fourth cycle review, which was due to take place in November 2025.⁷¹ The UNHRC responded by postponing the USA's review to the 53rd session in November 2026,⁷² but persistent non-engagement with the UPR as a whole makes it increasingly unlikely that participation will resume. At the time of writing, no indication has emerged that the USA intends to reverse its position ahead of the rescheduled review in late 2026, and no national report has been submitted. Complete withdrawal of this kind is unprecedented in the UPR's 18-year history.

The USA's withdrawal differs substantially from the non-cooperation examined above. Each of the preceding cases, however non-cooperative, left some documented trace of engagement: Myanmar submitted a national report before the coup intervened; Nicaragua participated fully in its Working Group review before withholding its response at adoption; Israel, even at its most obstructive, ultimately appeared before the Working Group in both 2013 and 2018, being absent only at the adoption stage on each occasion; and Ukraine's postponement was an accommodation the UNHRC granted at the state's own request. The USA's position is substantially different. It submitted no national report, made no appearance before the Working Group in November 2025, and did so on the strength of a prospective,

⁷¹ M. Lane and A. Storey, 'Opting Out of Accountability: The United States and the Implications of Withdrawal from the Universal Periodic Review' *EJIL:Talk!*, 3 November 2025, <www.ejiltalk.org/optiming-out-of-accountability-the-united-states-and-the-implications-of-withdrawal-from-the-universal-periodic-review/> visited 28 July 2026; OHCHR, *Human Rights Council Reschedules Human Rights Review of the United States of America; Regrets "Non-Cooperation" with UPR Mechanism*, 7 November 2025, <www.ohchr.org/en/press-releases/2025/11/human-rights-council-reschedules-human-rights-review-united-states-america> visited 28 July 2026.

⁷² OHCHR, *ibid.*

formal notification of non-engagement communicated in advance, rather than a silence the UNHRC was left to interpret as non-cooperation only after the fact.⁷³ The UNHRC's response, on 13th November 2025, was to pass a decision condemning the USA's actions, and calling upon it to resume cooperation,⁷⁴ a similar approach it has taken to the cases of Israel and Nicaragua discussed above.

This withdrawal matters for reasons that extend beyond the individual case. Most immediately, it undermines the UPR's central claim to universality. A mechanism that depends on universal cooperation for its legitimacy cannot easily absorb the complete non-engagement of a member state, nor can it present it as consistent with a 100% participation record. It also risks setting a precedent. If withdrawal carries no meaningful cost – procedural, reputational, or otherwise – other states dissatisfied with the process, or with the international system more generally, may be encouraged to follow suit. The risk is not speculative. The UPR has relied upon reciprocal expectation rather than on binding enforcement, which is precisely what makes such a withdrawal potentially consequential for the mechanism as a whole. Read alongside the USA's wider retreat from multilateral human rights accountability mechanisms,⁷⁵ the withdrawal appears not as a solitary policy choice but as a challenge to the systemic credibility of the UPR, the UNHRC, and the wider international human rights system.

The consequences are also not confined to inter-state dynamics. State engagement with the UPR shapes the international space available to civil society, through the universal stakeholder participation explored in section three, above.⁷⁶ Where a state steps back from dialogue, established channels for civil society advocacy narrow: there are fewer opportunities for dialogue, fewer occasions on which government representatives can be held to public account, and weaker accountability pathways to draw on more generally. Early evidence suggests that the USA's withdrawal has already had this effect; in the UPR's absence, domestic civil society organisations have convened informal side events and an alternative 'Peoples'

⁷³ UPR Info, *The UPR: With or Without USA*, 29 August 2025, <<https://upr-info.org/en/news/upr-or-without-usa>> visited 7 August 2026.

⁷⁴ UNHRC, *Non-cooperation of a State under review with the universal periodic review mechanism (Decision)*, 13 November 2025 (UN Doc A/HRC/DEC/OM/19/101).

⁷⁵ Carr-Ryan Center for Human Rights, *Human Rights in Retreat: Expert Voices on U.S. Withdrawal*, <www.hks.harvard.edu/centers/carr-ryan/publications/human-rights-retreat-expert-voices-us-withdrawal> visited 28 July 2026.

⁷⁶ A. Storey and M. Oleschuk, *Empowering Civil Society Organisations at the UPR* (Birmingham City University, August 2024) <<https://bcuassets.blob.core.windows.net/docs/empowering-csos-at-the-upr-full-report-133680282970363754.pdf>> visited 28 July 2026.

UPR’ in New York,⁷⁷ but these do not replace the international scrutiny the UPR provides. If that pattern is repeated elsewhere, the loss is not simply procedural, it is a loss of one of the few multilateral spaces in which domestic human rights records are subject to universal structured, public, peer scrutiny, however imperfect that scrutiny may be.

5. Conclusion

Universality is a core idea for advancing international human rights law. As explored in this chapter, the UPR was designed to be the ‘most universal’ international human rights mechanism, but state non-cooperation and withdrawal challenge this universality in practice. If non-submission of a national report and complete withdrawal from the process both count towards a headline participation figure, that figure is measuring something closer to formal enrolment rather than substantive engagement. This does not align with the UPR’s overarching aim to protect and promote human rights on the ground across the world. Without a clearer conceptualisation of what ‘engagement’ with the UPR means in practice, and of the points at which it can fail, meaningful assessment of state non-engagement with the UPR remains limited, and claims about the mechanism’s universality risk resting on weak foundations.

Addressing this gap requires two things.⁷⁸ First, there needs to be a conceptual framework capable of distinguishing types and degrees of state engagement with the UPR. This chapter is a good starting point as it reveals the ways that non-engagement can manifest. But this is not an exhaustive account; the variety of state practices observable at the UPR is undoubtedly much broader than what we have examined here. A comprehensive conceptual framework would recognise the full spectrum of state engagement and, importantly, help researchers, practitioners, and the UN to better understand and address the different kinds of disruptive practices exhibited by states at the UPR. Second, we require more empirical evidence as to how non-cooperation and withdrawal is experienced by those most affected by it, including the civil society organisations whose advocacy depends on the UPR remaining open. Developing both spheres is necessary if the field is to move beyond treating cases such

⁷⁷ See e.g., American Civil Liberties Union, *Civil Society Organizations Join UN Human Rights Council in Urging Trump Administration to Cooperate with the Universal Periodic Review*, 7 November 2025, <www.aclu.org/press-releases/civil-society-organizations-join-un-human-rights-council-in-urging-trump-administration-to-cooperate-with-the-universal-periodic-review> visited 7 August 2026; Center for Global Law and Justice, Northeastern University, *Center for Global Law and Justice Brings Students to Forefront of International Human Rights Advocacy*, 11 October 2025, <<https://law.northeastern.edu/center-for-global-law-and-justice-brings-students-to-forefront-of-international-human-rights-advocacy/>> visited 7 August 2026; UPR Info, *supra* note 73.

⁷⁸ To address some of these issues, the authors have submitted an application for funding to conceptualise the concept of state engagement and to explore the implications of the USA’s withdrawal in the fourth cycle.

as the USA as an anomaly, and towards a proper account of what it means for universality to break down, with the ultimate aim of protecting the UPR's legitimacy as a unique and impactful human rights mechanism.

For now, this chapter, and particularly the study of the USA's withdrawal, should at least give the UNHRC reason to reassess how it deals with instances of withdrawal as distinct from other forms of non-engagement. UNHRC Resolution 5/1 is clear that the UPR is to be a "cooperative" mechanism,⁷⁹ and this approach has been cited as a reason for the UPR's success.⁸⁰ Yet the resolution is less clear on what happens in instances of withdrawal, with the only reference being that "[a]fter exhausting all efforts to encourage a State to cooperate with the universal periodic review mechanism, the Council will address, as appropriate, cases of persistent non-cooperation with the mechanism".⁸¹ The resolution neither anticipates, still less resolves, the case of a state that opts out. As seen above, in practice, the UNHRC's response has been to adopt a decision on "non-cooperation of a State under review with the universal periodic review mechanism",⁸² expressing regret, calling on the state to resume cooperation, and rescheduling the review to a later session. The UNHRC's procedural vocabulary – "postponement", "non-cooperation", "resumption" – presumes that the state remains formally within the process and is delaying its engagement. Such a response may be appropriate in cases where, as we have identified above, there are exceptional circumstances which prevent an otherwise willing state to engage at a given time. However, it is questionable whether this is appropriate where a state has declared, in advance, that it does not intend to engage at all with a review cycle. In these cases, the UNHRC's approach is unsatisfactory. Applying the non-cooperation template to the USA indicates that the UNHRC, so far, has no other template to work from. Whether that same response remains available if the USA does not appear at the rescheduled 2026 session is a question that the UPR's founding principles and modalities do not answer. Nothing in the institutional design specifies what, if anything, follows a second non-appearance, still less a state's indefinite absence from the remainder of a cycle.

⁷⁹ UNHRC, 'Resolution 5/1', *supra* note 4, Annex, paras. 3(b), 4(e), 4(f), 27, 33.

⁸⁰ E. Domínguez-Redondo, 'The Universal Periodic Review: Is There Life Beyond Naming and Shaming in Human Rights Implementation?' 4 *New Zealand Law Review* (2012) p. 673; K. M. Milewicz and R. E. Goodin, 'Deliberative Capacity Building through International Organizations: The Case of the Universal Periodic Review of Human Rights' 48:2 *British Journal of Political Science* (2018) p. 513; P. Elizalde, 'A Horizontal Pathway to Impact? An Assessment of the Universal Periodic Review at 10' in A. Brysk and M. Stohl (eds.), *Contesting Human Rights: Norms, Institutions and Practice* (Edward Elgar, Cheltenham, 2019).

⁸¹ UNHRC, 'Resolution 5/1', *supra* note 4, Annex, para. 38.

⁸² UNHRC, 'Non-cooperation of a State under review (USA)', *supra* note 74.