

COMPLEMENTING UN HUMAN RIGHTS EFFORTS THROUGH UNIVERSAL PERIODIC REVIEW

Abstract:

The UN undertakes numerous human rights activities. Various UN entities have been established solely to promote and protect human rights, such as the Human Rights Council and the human rights treaty bodies. Others, such as the Security Council, have mandates intrinsically connected to human rights. And a variety of UN specialized agencies, programmes and funds work in areas associated with human rights. But the work these entities undertake lacks coordination. In 2020, UN Secretary-General António Guterres spoke of the need to enhance ‘synergies between human rights and all pillars of the work of the United Nations’ and encouraged the use of the Universal Periodic Review (UPR) process as a way of doing so. And one of the ‘principles’ of UPR is that it should ‘complement and not duplicate other human rights mechanisms’. There has been little exploration of the extent to which UPR does complement the UN’s other work in human rights. This article seeks to fill that gap. Drawing on data from the first three cycles of UPR, it demonstrates the extent to which states have complemented UN efforts to protect and promote human rights in UPR recommendations. Building on these empirical observations, it explores how UPR recommendations could be used to further coordinate and reinforce the UN’s human rights work by avoiding generic references to the UN, expanding their focus beyond the ‘core’ UN human rights bodies to engage with the work of all UN entities, and encouraging engagement with all aspects of a particular entity’s mandate. (249 words)

Practitioner points:

- Beyond the work of the UN Human Rights Council and subsidiary bodies and that of the UN treaty bodies, other UN entities – such as the Security Council and specialized agencies, programmes and funds - engage in work that is intrinsically connected with the promotion and protection of human rights.
- Analysis of the first three cycles of the Universal Periodic Review shows that the broad range of work of UN entities is not reflected in recommendations made to states and thus the aim that the Universal Periodic Review should complement human rights mechanisms is not fully realised.
- More specific Universal Periodic Review recommendations that explicitly refer to the broad range of UN action in human rights are required in order to realise the aims of the Universal Periodic Review and to enhance synergies between all UN entities as required by the UN Secretary-General’s 2020 Call for Action.

1. Introduction

The UN has a leading role in the promotion and protection of human rights. The UN Charter tasks the General Assembly (GA) and the Economic and Social Council (ECOSOC) with a number of functions relating to human rights. Various UN entities have been established solely to promote and protect human

rights, such as the Human Rights Council; the various UN human rights treaty bodies; and the Office of the High Commissioner for Human Rights (OHCHR). Other entities that might not be thought of as human rights entities, such as the Security Council (SC), have mandates that are intrinsically connected to the enjoyment of human rights. But the work of these entities – from standard-setting to providing technical assistance to fact-finding – is piecemeal in nature. There have been considered attempts to ‘mainstream’ human rights throughout the UN, including in its development and humanitarian activities. Most recently, a guiding principle of the 2020 ‘A Call to Action for Human Rights’ issued by UN Secretary-General António Guterres is ‘to enhance synergies between human rights and all pillars of the work of the United Nations’ and this is to be actioned by ‘[e]nsuring the UN makes fuller use of its human rights tools and entry points, including the Universal Periodic Review (UPR)’ (UN Secretary-General 2020a: 3-4, 12).

The UPR is the periodic inter-state review process instituted by the Human Rights Council in 2007. When created, states recognised the potential for overlap with the UN’s other work in the field of human rights and were keen to avoid unnecessary repetition. Accordingly, one of the ‘principles’ of UPR is that it should ‘complement and not duplicate other human rights mechanisms, thus representing an added value’ (UN Human Rights Council 2007: para 3(f); UN General Assembly 2006: para 5(e)). It should *support* and *enhance* UN efforts in human rights. The UPR can only live up to these principles and objectives if there is knowledge and strategic engagement with the human rights work undertaken across the entire organisation. ‘Complementing’ these efforts requires states to be aware of the wide panoply of UN human rights work and to draw attention to it when making their recommendations. It does *not* mean duplicating, which would be inefficient and potentially harmful (especially where states reject recommendations which repeat calls made in other UN fora: Rodley 2012; Carraro 2022). Rather, referring to initiatives throughout the UN will tie together the strands of human rights activity across all pillars of the UN. It is this idea of complementing that the Call to Action seeks to capitalise on with the exhortation to use the UPR as an ‘entry point’ to ‘enhance synergies’ within the UN.

There has been little exploration of the extent to which the UPR complements the UN’s other work in human rights. This article seeks to fill that gap. It interrogates the extent to which the UPR has been used to tie together UN human rights efforts and how the Call to Action can be further operationalised. Section 2 introduces the work of the UN in the protection and promotion of human rights and UPR as a process designed to ‘complement’ this work. Section 3 draws on data from the first three cycles of UPR to consider the extent to which states have complemented UN efforts to protect and promote human rights in UPR recommendations. Building on these empirical observations, Section 4 explores how UPR could be used as a tool to further coordinate and reinforce the UN’s work in human rights.

2. The UN and Human Rights

2.1 UN efforts in the promotion and protection of human rights

Although one of the purposes of the UN is '[t]o achieve international co-operation in ... promoting and encouraging respect for human rights and for fundamental freedoms for all' (UN Charter: Art 1(3)), there is no UN human rights 'system' as such; rather there is a 'multiplicity of "mechanisms" working more or less towards the same goal' (Alston and Mégret 2020: 7). Some UN organs, such as the GA and ECOSOC, have as part of their mandate the promotion and protection of human rights (UN Charter: Arts 13(2), 62, 68). And the GA has focussed on standard-setting, adopting resolutions on the human rights situation in individual states as well as particular human rights issues, and adopting programmes and plans of action linked to world summits and conferences (Clapham 2020a). For its part, the SC has come to appreciate the importance of the enjoyment of human rights for fulfilment of its mandate to maintain international peace and security (UN Charter: Art 24; Genser and Stagno Ugarte 2014; Mégret 2020a). Other UN entities have been created solely to consider human rights matters. These include: the UN human rights treaty bodies, the Human Rights Council and its system of special procedures, and the OHCHR. In addition to the principal organs of the UN and the subsidiary human rights-focused organs, there are a variety of UN specialized agencies, programmes and funds that work in areas associated with human rights and which can – and sometimes are mandated to – promote the enjoyment of human rights (UNSDG Human Rights-Based Approach; Van Weerelt and Ismalebbe (2009); Swepston (2019); Oestreich (2024)). These include some of the specialized agencies (eg the International Labour Organization (ILO)); programmes (eg the World Food Programme (WFP)); and funds (eg the United Nations Children's Fund (UNICEF)). Other UN entities also play important roles, notably UN Women and the Peacebuilding Commission.

Overall though, UN action in the field of human rights has not developed according to any overarching plan: it has developed incrementally over time. Entities¹ have been established in response to particular needs and as a result of various pressures and reform efforts. For example, the position of High Commissioner for Human Rights was established in 1994 partly owing to lobbying efforts on the part of civil society (Clapham 1994). Part of the role of the High Commissioner and the associated office, OHCHR, is to provide advisory services, as well as technical and financial assistance, to support the implementation of human rights (Clapham 2020b; Gaer and Broeker 2013). This work includes developing frameworks to assist with implementation and indicators to assess compliance. Commissions of inquiry² are established as needs require and politics allow. They are given a mandate to investigate alleged violations of international human rights law and, depending on the situation, sometimes also international humanitarian law. Frequently they are also mandated to make recommendations relating to accountability. The degree to which UN entities work with human rights issues also ebbs and flows over time. Some, such as the SC, have increasingly engaged with human rights issues (Genser and Stagno Ugarte 2014), while others, such as the ECOSOC, do less than they did previously (Mégret 2020b). Although there are links and synergies

¹ The term 'entities' is used to cover organs, specialized agencies, programmes, funds and other bodies.

² This term is used to describe commissions of inquiry, fact-finding missions, panels of experts, and associated bodies. See OHCHR 2015: Annex III.

between different UN entities that work with human rights, there are also gaps, tensions, and overlapping activities (Universal Rights Group 2016).

Since at least the 1990s, there has been a concerted effort to ‘mainstream’ human rights throughout the work of the UN (Oberleitner 2008; Kedzia 2009). Secretary-General Kofi Annan in his 1997 report on ‘Renewing the United Nations: A Programme for Reform’ stated, ‘[a] major task for the future will be to enhance the human rights programme and integrate it into the broad range of the Organization’s activities, including in the development and humanitarian areas.’ (UN Secretary-General 1997: para 196; UN Secretary-General 2002: para 48). In the World Summit Outcome states committed to ‘support[ing] the further mainstreaming of human rights throughout the United Nations system’ (UN General Assembly 2005: paras 9, 126). So when the Human Rights Council was established in 2006, part of its mandate was to ‘promote the effective coordination and the mainstreaming of human rights within the United Nations system’ (UN General Assembly 2006: para 3). And, in Secretary-General Ban Ki-moon’s 2014 Human Rights up Front action plan, ‘Strengthening the UN’s human rights capacity, particularly through better coordination of its human rights entities’ was one of the actions called for (UN Secretary-General 2014: 2).

In 2020, Secretary-General Antonio Guterres made a ‘Call to Action for Human Rights’. This Call confirmed an ‘overall intention’ *inter alia* to enhance synergies between human rights and all pillars of the work of the United Nations’ (UN Secretary-General 2020a: 3). The Secretary-General called for continued engagement by the SC, the GA and the Human Rights Council to resolve human rights challenges and committed to ‘make a concerted effort to ensure predictable and consistent UN response to [persistent disregard for human rights]’, to ‘[e]nsure that the UN makes fuller use of its human rights tools and entry points, including the Universal Periodic Review (UPR), as a basis for meeting the challenges, opportunities, and needs of the 21st century’, and to ‘issue practical guidance to ensure that UPR recommendations are taken into consideration in UN engagement with all Member States at Headquarters and field levels’ (Ibid: 11, 12). The 2020 Call thus made a link between UPR and the human rights work done across the entire UN organisation.

2.2 Universal Periodic Review

Undertaken by the Human Rights Council, the UPR is a peer review process by which the human rights record of every UN member state is examined every four and a half years (UN Human Rights Council 2011a). The basis of each review is the UN Charter, the Universal Declaration of Human Rights (UDHR), human rights instruments to which the state under review is party and other pledges and commitments on human rights made by the state, as well as applicable international humanitarian law. Information on the human rights situation in the state under review is provided in three documents: i) a national report from the state under review; ii) an OHCHR compilation of ‘the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents’; and iii) an OHCHR compilation of information from other

stakeholders, including civil society (UN Human Rights Council 2007: para 15). States make recommendations to the state under review on improving its human rights situation. These recommendations can be ‘accepted’ or ‘noted’³ and implementation of accepted recommendations is one of the considerations that forms part of the state’s next review.

At the time the UPR process was created, states and academics recognised the potential for overlap between UPR and the UN’s other work in the field of human rights (OHCHR Compilation of Proposals 2007: 7 and 68; Bernaz 2009: 88; Rodley 2012). Accordingly, the GA tasked the Human Rights Council with developing and undertaking a review which ‘shall complement and not duplicate the work of treaty bodies’ (UN General Assembly 2006: para 5(e)). This was a common refrain during the negotiations on the modalities of UPR (UN Human Rights Council 2006: paras 20, 24). As a result, the Council went further than the GA’s directive, recognising as a ‘principle’ of UPR that it should ‘complement and not duplicate the work of *other human rights mechanisms*, thus representing an added value’ (UN Human Rights Council 2007: para 3(f)). A further ‘objective’ of UPR is the ‘encouragement of full cooperation and engagement with the Council, other human rights bodies and the Office of the United Nations High Commissioner for Human Rights’ (Ibid: para 4(f)). Although the terms ‘human rights mechanisms’ and ‘*other human rights bodies*’ are not defined, given the mainstreaming imperative, arguably they should extend to *all* UN entities undertaking work in human rights and are not limited to the treaty bodies, the Human Rights Council and its entities, and the OHCHR. Indeed, the GA, SC, and SG have all encouraged greater interaction with the UPR outside the context of the core human rights mechanisms (UN General Assembly 2016: para 11; UN Security Council 2016a: para 11; UN Secretary-General 2020b: para 82).

In summary, the UPR is intended to *complement* the human rights work of all UN entities. It should not seek to repeat this work as that would amount to duplication. Rather, the UPR should serve to *reinforce* the work of UN entities. This can be achieved through the recommendations that are made to the state under review. But, has this taken place in practice? Do UPR recommendations, in fact, complement the UN’s broad range of work in human rights? There has been little work on these questions. Academics have started to selectively analyse the potentially complementary (and duplicative) nature of the work of UPR and other UN entities, including treaty bodies and special procedure mandates, and suggest that larger-scale projects are required (eg Carraro 2019; Carraro 2022; Dominguez-Redondo and Smith 2024). These studies focus on substantive alignment of recommendations from these entities and those made during the UPR: that is, is there alignment in terms of *content* of recommendations. The next section of this article sets out the findings of a wide-ranging empirical study with a slightly different focus: it presents an empirical analysis of all recommendations made in the first three cycles of the UPR and an assessment of whether the UN’s range of work in human rights is reflected in UPR recommendations. This will serve as the basis for

³ This is the official language (UN Human Rights Council 2008a); however, the language used can differ (eg states might ‘support’, ‘not accept’ or ‘reject’ recommendations). There may also be partial acceptance or no response at all.

discussion of whether the intention that the UPR should complement the UN's human rights efforts has been realised.

3. The UN's human rights work in UPR recommendations

UPR recommendations are the product of reflexive choices made by the recommending state and so provide a rich source of data on state perceptions on a variety of human rights issues. States make recommendations for a variety of reasons. Some of them might reflect the state's thematic priorities or political interests. Others might be made out of convenience or ease. In this article, we do not go behind the recommendations to determine the motivations for them. Rather, we ascribe to Kälin's suggestion that 'every time a state makes a recommendation during a UPR review, the speaker implicitly asserts the validity, legitimacy and relevance of the invoked human rights guarantee' (Kälin 2017: 33). Building on this, we suggest that when a state refers to an entity or its outputs in a recommendation, there is also recognition of the validity, legitimacy and relevance of the entity's work in human rights. It promotes the work undertaken by that entity. For example, by citing an output, the recommending state is reinforcing the authority of that output and implicitly the work of the entity that issued it. This can be particularly influential in respect of outputs which states were not involved in drafting. For example, when a state refers to a General Comment of the Human Rights Committee, it not only reinforces the authority of the specific General Comment cited, it also confirms the competence of the Committee to adopt General Comments.

Recommendations can also shed light on states' views of the scope of international human rights law (Schabas: 80). For example, Bolivia recommended to the United States to '[e]nsure compliance with the human right to water and sanitation according to General Assembly resolution 64/292' (UN Human Rights Council 2015a: para. 176.312). In citing General Assembly Resolution 64/292, Bolivia recognised the relevance of the resolution for the human right to water and reinforced the authority of that resolution. The importance of referring to this resolution is illustrated by the response from the United States: it supported the recommendation in part but was careful to note that it does 'not regard UNGA Resolution 64/292 as legally-binding' (UN Human Rights Council 2015b: para. 12). In responding in the way it did, the United States was seemingly aware that its partial acceptance of the recommendation, and implicit reinforcement of the resolution, might give the resolution greater legal status than it had.

Finally, we also suggest that the type of action called for – such as recommendations to 'cooperate' with an entity or 'implement' an output – can be used to assess whether UPR recommendations are reinforcing and/or coordinating the human rights work being undertaken across the UN. The action called for can provide an entry point for the entity to engage with states. What we are concerned with is whether states are directed to engage with UN entities and whether this is engagement that can complement the work of these entities. Thus our analysis of 'action' is distinct from many of the analyses of UPR that rely on the five 'action categories' developed by McMahon that are based on 'the increasing levels of effort, including

political and financial resource allocation, [required] on the part of the state’ to implement the recommendation (UPR Info 2020; McMahon 2012). For example, recommendations that call on states to: request assistance from a particular UN entity; continue to cooperate with a special procedure mandate; consider accepting the competence of a treaty body to receive individual communications; engage with a commission of inquiry; or implement a recommendation from the OHCHR, require different actions according to McMahon’s categorisation but are all directly relevant to our study with little variation in terms of their importance for our conclusions.⁴

On these understandings, we have examined how the UPR has complemented UN efforts in human rights by analysing all recommendations made in the first three cycles of the UPR. We consulted the database created by the non-governmental organisation UPR Info, which, at the time of writing, included all recommendations made by states during the first two UPR cycles and only the third cycle reviews that took place between May 2017 and November 2020.⁵ For the remainder of third cycle reviews, which took place from January 2021 to January 2022, a further database of recommendations was compiled from the information provided in the Universal Human Rights Index hosted by the OHCHR.⁶ From these databases, we identified all recommendations that refer to UN entities, including the principal and subsidiary organs and their mechanisms, the treaty bodies and specialized agencies, funds and programmes. Where recommendations contained references to two or more entities both references were noted. All recommendations referring to outputs from UN entities were also identified. Outputs were linked to a UN entity where they are adopted or endorsed by that entity, even if the entity was not explicitly mentioned in the recommendation. For each identified recommendation, the action(s) called for in relation to the entity(ies) and/or output was noted in order to establish whether the recommendation complemented UN human rights efforts. Our findings are presented below.

3.1 The UN and UN human rights mechanisms generally

Of the 103,010 recommendations made during the first three cycles of UPR, 13,024 (almost 13 per cent) contain an explicit reference to the UN, or one or more UN entities or their outputs. This includes 441 recommendations that provide a ‘generic’ reference to the ‘UN’, ‘United Nations human rights bodies’ or similar. The majority of these recommendations call for ‘cooperation’ or for states to ‘seek assistance’, and sometimes ‘technical assistance’, from these mechanisms. These recommendations tend to call on states to engage with UN entities to improve the human rights situation at home, with some focussing on a particular

⁴ In fact, all five action categories identified by McMahon are reflected in the recommendations that form the basis of our study.

⁵ Available at: <<https://upr-info-database.uwazi.io/>>.

⁶ Available at: <<https://uhri.ohchr.org/en/search-human-rights-recommendations>>. Where recommendations from several states were grouped together in the Universal Human Rights Index, these were separated out to ensure consistency with the data provided in the UPR Info database. For example, although listed as one recommendation in the Universal Rights Index, the following recommendations were separated into two records: ‘Sign and ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (Honduras) / Accede to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (Sudan)’.

issue, such as disappearances, poverty alleviation or female genital mutilation (FGM) (UN Human Rights Council 2010: para 71.105). Other recommendations call on states to take into account, or comply with, the views of one or more UN entities (UN Human Rights Council 2013: para 115.2). There are occasional references to ‘UN resolutions’ without further elaboration on which resolution or the UN entity that adopted them. References to developing the UN human rights ecosystem are rare.

In general, there are far more references to specific UN entities and their outputs than to generic references to the UN or ‘UN human rights mechanisms’. Figure 1 shows the most frequently referred to bodies, ranging from 4,561 recommendations referring to the treaty bodies to 105 recommendations referring to the Office of the UN High Commissioner for Refugees (UNHCR).

[Figure 1]

There are also rare references to UN Country Teams⁷ and other UN-State arrangements (22),⁸ and a further handful of references to the ECOSOC (8), the Secretariat (45, including 30 references to the UN Secretary-General and the mandates created by their office), and orders or judgments from the International Court of Justice (13). The paucity of references to these entities suggests that they are less well-known amongst states or that they are perceived by the recommending states as doing limited human rights work compared to those entities that are referred to more frequently. In some instances, it may even be the case that it is more ‘effective’ to refer to other entities and their outputs. For example, five of the eight references to ECOSOC are to the ECOSOC Safeguards guaranteeing protection of rights of those facing the death penalty (UN Economic and Social Council 1984). These are seen as out of date by the death penalty abolitionist community, and there is a preference for references to be made to specific treaty provisions as well as the bi-annual GA resolutions on the abolition of the death penalty.

3.2 UN human rights treaty bodies

The most referred to UN entities are the treaty bodies. Table 1 sets out the number of references to each treaty body or its outputs and the action called for.

[Table 1]

Six hundred and seventy-six recommendations refer to the multiplicity of ‘treaty bodies’ without specifying a particular committee, with 109 of these being recommendations from the United Kingdom to ‘Adopt an open, merit-based selection process when selecting national candidates for United Nations treaty body

⁷ The UN country team is a grouping of all UN entities ‘working on sustainable development, emergency, recovery and transition in programme countries’, led by the Resident Coordinator and intended to ensure inter-agency cooperation and decision-making: <<https://unsdg.un.org/about/how-we-work>>.

⁸ Including references to the International Commission against Impunity in Guatemala (CICG) and UN Development Assistance Frameworks for Sri Lanka and Cambodia.

elections'. This is a rare example of UPR being used to influence the process of appointing UN human rights experts. The Committee on the Elimination of Discrimination Against Women (CEDAW) has been referred to the most; whilst there were very few references to the Sub-Committee on the Prevention of Torture (SPT) and the Committee on Migrant Workers (CMW).

The recommendations can be grouped into four different types of action, each of which serve the idea of complementing the work of the treaty bodies. First, there is a call to 'cooperate' with the treaty bodies. There are 136 such recommendations, which are often phrased as 'Strengthen cooperation with the treaty bodies' or variations thereof. However, it is not clear precisely what 'cooperate' with the treaty bodies refers to. It could relate to any element of the work of the treaty bodies that involves state parties.

Beyond the vague action to cooperate, the other recommended actions more clearly map on to the mandated activities of the treaty bodies and serve to reinforce and coordinate state activity. The second type of action called for is submission of state party reports (554 recommendations call for this action). The third calls for states to recognise the competence of the treaty body to accept communications (either inter-state or individual) where this is optional. These are the most common recommendation: there are 2,885 such recommendations. Finally, there are 1,049 calls to implement the recommendations of the treaty bodies. However, there are very few references to *specific* treaty body outputs in this regard: 21 references to General Comments, 6 references to specific concluding observations and single references to a CAT interim measures order and a CAT confidential inquiry. The four different types of recommendation that refer *explicitly* to the treaty bodies suggest a reinforcement of the work of the treaty bodies rather than an attempt to duplicate their work.⁹

3.3 Human Rights Council

UPR recommendations do engage to some extent with the work of the Human Rights Council (and its predecessor, the Commission on Human Rights) and there is reinforcement of the Council's work. There are 110 recommendations that explicitly refer to the 'Human Rights Council'. Some of these refer to the 'Council and its mechanisms' (UN Human Rights Council 2012: para 100.47), but, apart from the special procedures and some commissions of inquiry (discussed below), there are almost no references to specific mechanisms and thus no recommendations to states to engage with them. There is no mention of the Advisory Committee nor the Complaint Procedure, with only single references to the Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises and the Expert Mechanism on the Rights of Indigenous Peoples.¹⁰

⁹ We do not consider recommendations that might be making an implicit reference; on *implicit* references to the treaty bodies, see Rodley 2012.

¹⁰ Given that successive rounds of the UPR are to engage with state compliance with previously accepted UPR recommendations, there are references to the 'Universal Periodic Review' 'mechanism'. However, these have been excluded from the data presented.

The majority of recommendations that refer to the institution, rather than its mechanisms or outputs, call on states to ‘cooperate’ with the Council, as well as ‘play an active role’ or ‘participate’ in its work. These recommendations serve to reinforce the work of the Council by picking up on key elements of the Council’s mandate to ‘[c]ontribute, through dialogue and cooperation, towards the prevention of human rights violations and respond promptly to human rights emergencies’ and to ‘[w]ork in close cooperation in the field of human rights with Governments’ (UN General Assembly 2006: paras 5(f) and 5(h)). Other recommendations focus on the Council’s mandate to ‘promote human rights education and learning as well as advisory services, technical assistance and capacity-building’, calling on states to ‘seek support’ or ‘seek assistance’ from the Human Rights Council (UN Human Rights Council 2016: para 128.84).

There are 248 references to outputs from the Human Rights Council. Recommendations referring to an output from the Human Rights Council call for ‘implementation’ of or ‘compliance’ with the output. Of these, 51 are ‘generic’ references to resolutions (33), recommendations (17) and decisions (1) of the Council with no indication which documents are being referred to. The rest are references to specific resolutions or other documents approved by the Council. There are infrequent and isolated references to resolutions responding to country situations. The most referred to resolutions are those that establish norms or goals, such as Human Rights Council Resolution 9/12 that sets out voluntary goals for states to adopt and implement to promote the realization and implementation of the UDHR (45) (UN Human Rights Council 2008b); and the UN Guiding Principles on Business and Human Rights (81) (UN Human Rights Council 2011b).

3.4 Special Procedures

The greatest engagement with the work of the Human Rights Council arises from states’ recognition of the importance of the special procedures ‘system’. Recommendations calling for action in relation to the special procedures are the second most common after the treaty bodies and it is clear that UPR is used as a site for both reinforcing and coordinating the work of the special procedures.

Over 60 per cent of the 2,535 recommendations referring to the special procedures include a general reference to the ‘special procedures’ (1,612 recommendations). It is the overall ‘system’ that is being acknowledged with such recommendations and their main focus is country visits. 1,321 recommendations call on states to either facilitate a visit or issue a standing invitation for the special procedures to visit. Other aspects of the work of the special procedures, such as examining complaints that allege human rights violations, developing standards and raising awareness of issues, receive less recognition in UPR recommendations. 295 recommendations call for states to ‘cooperate’ with the special procedures and 69 call for states to disseminate and implement the recommendations or decisions from the special procedures.¹¹ As with the recommendations regarding the treaty bodies, it is unclear what ‘cooperate’ refers

¹¹ There are more than 1,612 actions recommended because some recommendations called for 2 or more actions.

to. However, use of such a loose term may serve to complement the work of the special procedures regime by encouraging the state under review to reflect on the actions beyond facilitating visits that it needs to engage in to demonstrate ‘cooperation’. If such recommendations are accepted, mandate holders are given an entry point to engage in a wide range of activities with the state under review.

[Table 2]

In terms of references to specific mandates, 149 recommendations refer to *country*-specific mandates. Table 2 sets out the mandates that were referred to. The mandate relating to the Democratic People’s Republic of Korea (DPRK) was referred to the most being referred to 40 times. It is notable that one long-standing country mandate was not mentioned at all, namely Mali. Others were only mentioned once: including those relating to the Central African Republic (CAR) and Haiti. The timing of the relevant state’s review and when a mandate was discontinued may explain the lack of references to some mandates. Most recommendations call for the state concerned to ‘cooperate’ with the mandate holder, as well as allowing visits and granting unfettered access.

There are 783 references to specific *thematic* special procedures and their work and the breakdown of references is set out in Table 3. The most common recommendation calls for states to ‘facilitate visits’ by the mandate holders (546 recommendations call for such action), with only 48 recommendations calling for ‘cooperation’ and 190 recommendations calling for implementation of recommendations or decisions from the mandate holders. This likely suggests that states do not perceive that there is much to engaging with specific mandates beyond facilitating visits or implementing their recommendations. The most referred to mandates are those relating to civil and political rights – with 131 recommendations referring to the torture mandate and 51 to the mandate on freedom of opinion and expression. By contrast, little action is called for in relation to mandates relating to economic, social and cultural rights – with one reference to the mandate on culture, eight to water and sanitation, and eight to health. Other mandates are not mentioned at all. These include the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of self-determination, the Independent Expert on human rights and international solidarity, the Independent Expert on the promotion of a democratic and equitable international order, and the Independent Expert on the enjoyment of all human rights by older persons. Each of these mandates had conducted country visits and issued other recommendations in their annual reports that could have been referred to.

[Table 3]

3.5 Commissions of Inquiry

The work of commissions of inquiry is mentioned relatively infrequently in UPR recommendation, with only 144 references. All the recommendations that refer to commissions of inquiry reinforce their work, calling for the state to ‘cooperate’ with the relevant commission, facilitate access to the inquiry body and to ‘accept’ and ‘implement’ the findings.

Ten different commissions of inquiry are referred to, with four commissions accounting for 70% of these references (Independent International Commission of Inquiry on the Syrian Arab Republic: 47; Group of Eminent Experts on Yemen: 19; Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea: 18; and Commission of Inquiry on Human Rights in Burundi: 17). The high proportion of references to the commission of inquiry regarding the Syrian Arab Republic is likely due to the fact that it was created in 2011 and its mandate has been renewed to this day. It was, therefore, operating during each of the three reviews of the state that took place in 2011, 2016 and 2022. The limited engagement with the work of other commissions of inquiry might be explained by the timing of a state's UPR and the reporting of a commission of inquiry and/or the visibility of the commission and its reports.

3.6 The High Commissioner for Human Rights and OHCHR

One of the objectives of the UPR is 'encouragement of full cooperation with ... the Office of the High Commissioner for Human Rights' (UN Human Rights Council 2007: para 2(f)), and this aim has been realised to a limited extent. To the extent that these efforts are recognised and reinforced in UPR recommendations, states have tended to focus on the assistance and advice that can be offered by the OHCHR rather than the work of the political figurehead that is the High Commissioner. There are only 37 recommendations that refer to the High Commissioner. These call on the state under review to 'cooperate with' (12), 'facilitate a visit of' (9), 'seek assistance from' (1), and heed recommendations or advice from (15) the High Commissioner. By comparison, there are 473 recommendations that call on the state under review to engage with the OHCHR: through cooperation (280), seeking assistance (technical or otherwise) (171), and/or facilitating a visit (25).

UPR recommendations have provided limited endorsement of OHCHR outputs that seek to assist with human rights implementation. Sixty-one recommendations call for implementation of the recommendations and outputs that have been made by the Office, including 18 which called on states to develop human rights indicators as suggested by the OHCHR (OHCHR 2012), 17 which call for states to establish a national mechanism in line with the OHCHR Practical Guide on National Mechanisms for Reporting and Follow-up (OHCHR 2016) and six which called on states to use the OHCHR Principles and Guidelines on Human Rights and Human Trafficking (OHCHR 2002).

3.7 The General Assembly

Generally speaking, there is a focus on the normative functions of the GA in UPR recommendations, rather than the action the Assembly has taken in responding to country situations. Whilst there are only 37 recommendations referring to the UDHR, other norms are referred to more frequently. For example, there are 84 recommendations that call for states to 'support', 'comply with' or 'implement' the UN Declaration

on the Rights of Indigenous Persons (UN General Assembly 2007); 75 recommendations that call for the implementation of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) (UN General Assembly 2015a); and 48 recommendations that call for the implementation of the United Nations Declaration on Human Rights Defenders (UN General Assembly 1999). A remarkable outlier is the Paris Principles Relating to the Status of National Human Rights Institutions (UN General Assembly 1993). Welcomed by GA Resolution 48/134 and annexed to that resolution, the Paris Principles were referred to in 2,252 recommendations that call for establishment or strengthening of national human rights institutions. Most of the references to norms do not recall that they are GA outputs or that that body has endorsed them; rather they are simply referred to as norms to be complied with, implemented, or achieved. The imprimatur of the GA is not why they are cited. Instead, they are referred to because of their own inherent authority and value in the human rights project.

GA initiatives in the realm of human rights are promoted to a much lesser extent in UPR recommendations. The most significant is the support – albeit comparatively limited – of the Assembly’s drive to abolish the death penalty. Sixty recommendations call for states to implement GA resolutions on the death penalty by either establishing a moratorium on its use or abolishing the sentence. These recommendations explicitly mention the GA’s resolutions when calling for such action. Other GA initiatives and resolutions such as the World Programme for Human Rights Education and recognition of the right to water are rarely mentioned.

An important development has been the adoption of the 2030 Agenda for Sustainable Development and the 17 Sustainable Development Goals (SDGs) and 169 associated targets (UN General Assembly 2015b). ‘[G]rounded’ in the UDHR and human rights treaties, the SDGs ‘seek to realize the human rights of all and to achieve gender equality and the empowerment of all women and girls’ (UN General Assembly 2015b: para 10 and Preamble). The SG confirmed that human rights are the foundation for realising the SDGs in his Call to Action and encouraged states to use UPR ‘to contribute to SDG implementation’ (UN Secretary-General 2020a: 4-5). There is a synergistic relationship between the SDGs and human rights and this is acknowledged in the 364 UPR recommendations that refer to the SDGs and 55 references to the 2030 Agenda.¹² Some of the recommendations call for a specific action which is ‘in line’ with an SDG, such as ‘Declare formally a moratorium on or the abolition of the death penalty, in line with Sustainable Development Goal 16’ (UN Human Rights Council 2021: para 104.22). Other recommendations call for states to ‘meet’, ‘implement’, ‘achieve’ or ‘make progress on’ the SDGs. The majority of references are to a specific goal within the SDGs, rather than to the SDGs generally.

3.8 Security Council

¹² There are 198 recommendations that call for states to work towards ‘achieving’, ‘implementing’ or ‘attaining’ the predecessor to the SDGs, the Millennium Development Goals (UN General Assembly 2000).

In contrast to the references to GA activity, UPR recommendations tend to explicitly mention the SC when referring to its resolutions and initiatives. This may be related to the fact that SC decisions are binding on member states of the UN (UN Charter: Article 25; *Legal Consequences*: 52-53, paras 113-114). However, this does not automatically translate into recommendations being accepted or supported: fewer than 70% of such recommendations were.

The majority of recommendations referring to SC activity have endorsed the SC's Women, Peace and Security initiative. This initiative, amongst others, reflects the more proactive role that the SC has taken in recent years to the promotion and protection of human rights. SC Resolution 1325 calls on all actors in an armed conflict to 'ensure the protection of and respect for human rights of women and girls' when negotiating peace agreements, and to respect the rights of women and girls as protected in various international treaties, including the Convention on the Elimination of Discrimination against Women and the Convention on the Rights of the Child, as well as a commitment from the SC that all Council-mandated missions will 'take into account ... the rights of women' (UN Security Council 2000: paras 8, 9 and 15; UN Security Council 2008; UN Security Council 2013). This resolution is the touchstone of the Council's Women, Peace and Security agenda, according to which states are *inter alia* encouraged to develop national actions plans to ensure the resolution is implemented (UN Security Council President 2004). Seventy-nine UPR recommendations call for implementation of the resolutions on Women, Peace and Security, including devising the required action plan, and monitoring implementation. A handful of these focus on criminal law aspects of Resolution 1325, calling for prosecution of rape as a war crime and ensuring there is no impunity for sexual violence that takes place in an armed conflict.

In comparison, there are only five recommendations that refer to Resolution 1612 and call on states to cooperate with or support the work of its monitoring and reporting mechanism regarding children and armed conflict and achieve the aims of the resolution (UN Security Council 2005). Peacekeeping and peacebuilding operations also feature rarely in UPR recommendations. Most of the 31 recommendations that refer to SC operations¹³ explicitly refer to the human rights element of the peacekeeping missions and call for cooperation and coordination in terms of ensuring the promotion and protection of human rights. So, despite the SC's acknowledgement of the linkages between peace and security and human rights - and the mainstreaming imperative - states have not generally reinforced this connection in their UPR recommendations.

3.9 UN Specialized Agencies, Funds and Programmes

¹³ Nine peacekeeping operations are explicitly mentioned: MINURCAT (2 recommendations); UNAMI (6 recommendations); UNOCI (1 recommendation); UNMIL (7 recommendations); UNSMIL (7 recommendations), UNMISS (3 recommendations); MINUSMA (1 recommendation) MINURSO (3 recommendations) and UNAMID (9 recommendations).

The work of UN specialized agencies, funds and programmes¹⁴ in the promotion and protection of human rights is also referenced in UPR recommendations. The value of the various institutions has tended to be seen in their provision of ‘technical’ or other assistance in ensuring human rights obligations are met. There are calls for states to seek assistance from these entities, as well as calls for their outputs to be implemented. There are 133 such recommendations that do not specify a particular fund or agency to engage with.

Where specific agencies, funds and programmes are named, states are called on to ‘seek assistance’ and ‘cooperate’ with such entities, as well as implement their outputs. States are also called on to sign or ratify treaties adopted by specialized agencies (the ILO, WHO, UNESCO, and the World Intellectual Property Organization (WIPO)).¹⁵ Table 4 sets out the number of such references. There are a further 15 recommendations that call on states to implement the International Technical Guidance on Sexuality Education, which was drafted jointly by UNESCO, UNAIDS, UNFPA, UNICEF, WHO and UN Women.

[Table 4]

With the exception of the ILO, references to specific specialized agencies, funds and programmes and their outputs are sporadic and states appear to prefer to provide a general recommendation to cooperate or seek assistance from ‘relevant United Nations agencies, policies and programmes’. The relatively high number of references to the ILO and UNESCO treaties likely reflects the fact that information on the ratification status of these treaties is included in the OHCHR compilation of UN information that feeds into the UPR.

3.10 UN High Commissioner for Refugees

The work of the UNHCR is also promoted in the UPR. Recommendations have suggested that states engage with and implement recommendations from UNHCR (24), as well as its other more specific guidance (5). There are 53 recommendations that call on states to cooperate with (including facilitate visits) (44) or to seek assistance from UNHCR (9).

3.11 Summary

The picture is mixed as regards the extent to which UPR recommendations complement the UN’s work in human rights. Thirteen per cent of the recommendations made during the first three cycles of UPR refer to UN entities or their work. While 441 recommendations call on states to cooperate and seek assistance from ‘the UN’ or UN human rights mechanisms generally, the vast majority of recommendations that make reference to the UN’s work in human rights refer to a specific UN entity or its outputs. Although there are

¹⁴ As autonomous international organisations, the specialized agencies, might not be considered to be part of the UN effort to promote and protect human rights. However, they all have a designated relationship with the UN, and are described on the UN’s own website as ‘working within the United Nations’ and part of the UN system as a whole: <<https://www.un.org/en/about-us/un-system>>.

¹⁵ These have been included as they form part of the work undertaken by the relevant agency.

differences in terms of which UN entities are promoted in UPR recommendations and to what extent, what is clear is that when ‘the UN’ or specific UN entities or their outputs are referred to, it is overwhelmingly in a way that serves the purpose of reinforcing their work. States are called upon to engage with UN entities in a variety of ways, such as to cooperate with them and seek assistance from them. Outputs of UN entities are cited approvingly, and their implementation is called for, even though, as a matter of international law, most do not create binding obligations for states (Shah and Sivakumaran 2021). And, opportunities are created for some UN entities to open a dialogue with states on the basis of these recommendations.

The work of the UN treaty bodies, the special procedures and the GA is referred to most in UPR recommendations. Delving deeper, we see that there is considerable variation when it comes to which treaty bodies and special procedure mandates are promoted through the UPR. Despite this variation, there is some commonality in terms of action required. In terms of the treaty bodies, states are primarily called on to recognise individual and state complaints processes and implement outputs, whilst recommendations referring to the special procedures tend to focus on facilitating visits.

There are comparatively few references to the Human Rights Council and even fewer references to the High Commissioner for Human Rights and their Office and the various commissions of inquiry that are mandated to investigate widespread human rights abuses. ECOSOC hardly features. This may reflect our earlier observations that its work has been overtaken by more specialized human rights bodies, such as the UN treaty bodies and the special procedure mandates, and some of its standards are considered to be outdated or inferior to more specific treaty and soft law provisions. However, even those human rights-specific institutions established by ECOSOC – such as the Commission on the Status of Women and the Permanent Forum on Indigenous Issues¹⁶ – are absent from UPR recommendations. Where the work of the Human Rights Council and OHCHR does feature, recommendations primarily call for the implementation of outputs adopted by these entities. This is also a feature of those UPR recommendations that refer to the work of the GA. The focus is on the GA’s normative function.

Beyond the entities with an explicit human rights mandate, UPR recommendations refer only infrequently to the human rights-related work of other UN entities. There is occasional recognition of the SC’s women, peace and security agenda in UPR recommendations, and even less promotion of its children and armed conflict work or human rights elements of its peacekeeping and peacebuilding operations. The Peacebuilding Commission is not mentioned at all despite its mandate to ‘promote an integrated, strategic and coherent approach to peacebuilding, noting that security, development and human rights are closely interlinked and mutually reinforcing’ (UN General Assembly 2016: para 4(b); UN Security Council 2016a: para 4(b)). A similarly limited and erratic approach is seen in relation to the work of UNHCR, as well as

¹⁶ As an advisory body to ECOSOC with a mandate *inter alia* ‘to discuss indigenous issues within the mandate of the Council relating to ... human rights’, and to ‘promote respect for and full application of the provisions of [the Declaration on the Rights of Indigenous Peoples] and follow up the effectiveness of this Declaration’, it plays an important role with regard to human rights. The absence is all the more remarkable given that the Declaration itself is mentioned in 63 recommendations.

the UN specialized agencies, funds and programmes. With the exception of the ILO, there is little encouragement to implement the outputs of these entities. Rather, the limited number of recommendations that mention the work of these entities tend towards calling for states to seek assistance from or cooperate with these entities. This suggests that, despite the mainstreaming imperative that has infused the work of the UN, states have not recognised or recognised only to a limited extent the human rights work of certain UN entities.

4. Looking ahead

What more can be done to ensure UPR recommendations better *complement* the broader UN work in the promotion and protection of human rights? This is a particularly important question given that various UN Secretaries-General have referred to the need to improve coordination of and enhance synergies in the UN's human rights work, that one of the principles of UPR is that it should complement other human rights mechanisms, and that one of its objectives is to encourage 'full cooperation and engagement with the Council, other human rights bodies, and the [OHCHR]' (UN Human Rights Council 2007: paras 3(f) and 4(f)). In this section we suggest how UPR recommendations can be improved so as to serve to *reinforce*, as well as *coordinate* UN human rights activity.

Improvements could be made with respect to engagement with the work of the *core* human rights mechanisms. Take the human rights treaty bodies. There is considerable variation in the references to the treaty bodies in recommendations. Some of the individual treaty bodies – the SPT and CMW – are rarely mentioned in recommendations. Along similar lines, whereas some of the functions of the treaty bodies are mentioned frequently, such as recognizing the competence of the treaty body to accept communications, the inquiry function is almost never referenced. The same is true of the special procedures mandates. Some country and thematic special rapporteurs and independent experts are not referenced at all. And while some functions frequently appear in recommendations, notably concerning visits, others are mentioned only infrequently, namely implementing recommendations of the mandate holders. All parts of a particular entity's mandate should be drawn on in UPR recommendations and all human rights entities considered.

Furthermore, as discussed above, there are a number of *other* UN organs and entities which are involved in the promotion and protection of human rights. In fact, given the human rights mainstreaming efforts within the UN, in theory all UN organs should be engaged in such activity. Various UN organs and entities have responded to the human rights mainstreaming imperative, from the SC's more proactive role in terms of human rights promotion and protection to the adoption of a human rights-based approach to guide UN development cooperation activities (UN Sustainable Development Group). Thus, instead of focusing narrowly on what might be considered the core human rights mechanisms – namely the treaty bodies, the Human Rights Council and its mechanisms, and the OHCHR – there should be a concerted effort to raise

awareness and reinforce the work of other UN entities that are undertaking work in the promotion and protection of human rights. This is a subtle shift with potentially significant implications.

Two examples will illustrate the point. The SC is not traditionally considered a human rights mechanism. Yet, some of the work it undertakes is closely related to the promotion and protection of human rights. Since the adoption of its Resolution 1325 in 2000, the SC has a women, peace and security agenda. Considerable efforts have been made to link the women, peace and security agenda to other aspects of the UN's work in human rights, notably the work of the CEDAW (UN CEDAW 2013; UN Women 2015; UN Security Council 2016b; O'Rourke and Swaine 2018; O'Rourke and Swaine 2020). However, the women, peace and security agenda barely features in UPR recommendations, suggesting that the general membership of the UN does not internalise the norm-setting resolutions of the 15-member state Security Council in this area. Indeed, in a report on women and peace and security, the Secretary-General has observed that '[t]he universal periodic review process of the Human Rights Council provides an invaluable forum to promote accountability on women and peace and security. Nevertheless, that important mechanism remains underutilized' (UN Secretary-General 2020b: para 82).

Likewise, the SC has created a significant infrastructure in relation to the issue of children and armed conflict. SC Resolution 1612 condemns the recruitment of child soldiers, calls for action to control and prevent activities that lead to children being recruited as child soldiers, and the establishment of a monitoring and reporting mechanism on children and armed conflict. A Working Group on Children and Armed Conflict reviews the reports of the monitoring and reporting mechanism and adopts 'Conclusions' which contain recommendations to parties to armed conflicts and other relevant actors. It is notable then that despite this significant human rights infrastructure there are only five recommendations that refer to Resolution 1612. Along similar lines, although both the SC and the GA 'Encourage United Nations Member States participating in the Universal Periodic Review process of the Human Rights Council to consider the human rights dimensions of peacebuilding, as appropriate' (UN Security Council 2016: para 11; UN General Assembly 2016: para 11), the Peacebuilding Commission does not feature in UPR recommendations at all.

The second example is the work of the UN specialized agencies, funds and programmes. Although, in many cases, the specialized agencies, funds and programmes are not human rights mechanisms as such, it has long been recognised that these entities can contribute to the realisation of human rights. Hunt has argued that 'Specialized agencies, funds, programs, and other UN Bodies have an indispensable role to play if the UN system is to engage with the entire spectrum of implementation [of human rights]' (Hunt 2017: 537; see also Oestreich 2024). Some of the core UN human rights treaties explicitly acknowledge this.¹⁷ For example, Article 22 of the ICESCR provides that the ECOSOC 'may bring to the attention of other organs

¹⁷ eg Convention on the Elimination of Discrimination against Women, Article 22; Convention on the Rights of the Child, Article 45; ICMW, Article 74, Convention on the Rights of Persons with Disabilities, Articles 36(5) and 38; and CED, Article 28.

of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters ... which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant'. The Committee on Economic, Social and Cultural Rights has confirmed that 'organs of the United Nations, their subsidiary organs and specialized agencies' includes, the Secretary-General, the Commission on Social Development, the Commission on the Status of Women, UNDP, UNICEF, CDP, the World Bank and IMF, and the ILO, FAO, UNESCO and WHO (UN CESCR 1990: para 2). And, these agencies, funds and programmes do contribute their knowledge and expertise to the state reporting process undertaken by the treaty bodies (Evans 2020: 528-529; cf Alston 2020: 445). Furthermore, the treaty bodies have also regularly referenced the work of these entities in their General Comments (UN CMW 2010; UN CESCR 1991; UN CESCR 1999; UN CESCR 2016; UN CERD 2009; UN CEDAW 2017; UN CRC 2017; UN HRC 2019; UN CRPD 2016; UN CERD 2021) Despite the clear relevance, aside from the ILO, the work of these bodies rarely features in UPR recommendations.

From these two examples, it is evident that there are considered attempts to draw connections and enhance synergies between UN entities in their work on human rights. However, in both cases states have not drawn on their value when making UPR recommendations. Explicit references to Security Council resolutions on women, peace and security and children and armed conflict, or the work of the specialized agencies in UPR recommendations will draw attention to their work and strengthen the effort of both reinforcing and coordinating states' engagement with the UN's work in human rights. Moving beyond the ritual incantations¹⁸ calling on states to 'issue a standing invitation to the UN special procedures' or 'submit its overdue reports to treaty bodies' to a greater number of UPR recommendations that call on states to engage with the work of these other entities will reinforce their relevance to the actual enjoyment of human rights across the globe.

One potential obstacle to increasing references to *outputs* adopted by this 'wider' conception of 'human rights mechanisms' is the limited bases of review for UPR. Reviews are to be based on the UN Charter, the UDHR, 'human rights instruments to which a State is party' and voluntary pledges and commitments, as well as 'applicable' international humanitarian law (UN Human Rights Council 2017: para 1). At first sight, this might mean that instruments such as SC resolutions and the outputs of specialized agencies cannot form part of the review. However, subsequent practice of states in the UPR suggests that states have interpreted the bases of review much more broadly. States have referred to precisely these sorts of materials - as well as outputs from the treaty bodies, special procedures, the Human Rights Council and the OHCHR that also do not fall within the bases of review - in their recommendations (Shah and Sivakumaran 2021).

The potential of UPR to complement the full spectrum of the UN's work on human rights requires knowledge of such work. For example, one area where the Call to Action has been actioned recently relates to the provision of information regarding how the UPR can contribute to the implementation of the SDGs.

¹⁸ This might even be considered 'ritualism' (Charlesworth and Larking (2015): 8-11).

Significant resource has gone into promoting the links between UPR recommendations and the SDGs and their targets. During the third cycle of the UPR, the OHCHR developed tools to link UPR recommendations with the SDGs. These include creating a matrix of thematically clustered recommendations and their associated SDG for each state, as well as the production of an infographic that indicates the ‘top 5’ SDGs that are implicated in recommendations made to each state. The OHCHR’s Universal Human Rights Index provides a searchable database of all UPR recommendations and makes relevant links to the SDGs. Various guides linking human rights and the SDGs have been produced (eg UNDP, OHCHR and DCO. 2022; Danish Institute for Human Rights). These concerted efforts to publicise the SDGs in an accessible manner during the course of the third UPR cycle likely explains the relatively high number of references to the SDGs and targets, which were only adopted one year before the end of the second UPR cycle. The instruction to states and UN entities to refer to the SDGs when providing reports for the fourth cycle of the UPR (OHCHR 2023a: para 6(e); OHCHR 2023b) will keep awareness of the SDGs high.

More broadly, however, a lack of awareness of the broader UN activity in human rights may explain why the work of some UN entities is not promoted more widely in UPR recommendations. It is notable that a common feature of the UN entities that are most frequently mentioned in recommendations, such as the treaty bodies, special procedures, and ILO, is that they operate out of Geneva. Bodies that operate out of New York (notably the SC, UN Women), The Hague (ICJ), and Paris (UNESCO) are referenced infrequently. Geneva-based diplomats are more likely to know of and interact with the work of those institutions based out of the Palais Wilson or the surrounding buildings, such as UNHCR and the ILO. Furthermore, there is often a ‘lack of coordination among diplomatic missions in both cities’ (Tistounet 2020: 199). Even though the work of the GA is widely referenced, this is mostly its normative function – that is, its efforts in adopting and endorsing standards and documents such as the Paris Principles on National Human Rights Institutions – which are then referenced by the Geneva-based bodies (eg UN CRC 2002: para 4).

It is not just geography that dictates knowledge and awareness of the UN’s human rights work. A further consideration is what informs states – and more specifically their diplomats’ and officials’ views – on what is a human rights mechanism. The Mechanisms page of the OHCHR website (UN Human Rights) refers to ‘treaty-based’ (ie the UN treaty bodies) and ‘Charter-based’ bodies. The latter category is said to ‘include the Human Rights Council, Special Procedures, the Universal Periodic Review and Independent Investigations’ (OHCHR website). There is no mention of the human rights work of other UN entities. And, even where entities are mentioned on these webpages, it has been observed that their work is not comprehensively included or accurately reflected in the OHCHR’s Universal Human Rights Index database (Dominguez-Redondo and Smith 2024: 145). The same is true of reference works. Standard accounts of the UN’s work on human rights cover the main organs of the UN, as well as the treaty bodies, but they do not tend to discuss the work of the specialized agencies, funds and programmes (Connors and Shah 2022; Mégret and Alston 2020; Smith 2021; Tomuschat 2014; Kälén and Künzli 2019; Bantekas and Oette 2020;

Samarsinghe 2018. Cf Nowak, Januszewski and Hofstätter 2012; Eide and Eide 2022; Chen and Renteln 2023).

One of the ways that awareness can be raised is through further input from these entities into the documents that feed into the UPR. The OHCHR document that compiles information from UN entities does refer to the work of the specialized agencies, funds and programmes. The ILO Conventions are referenced as standard, and other specialized agencies such as UNICEF, UNHCR and UNESCO are also routinely mentioned. The extent to which the work of the specialized agencies, funds and programmes is referred to in this document is, *inter alia*,¹⁹ based on whether the entities concerned have engaged with the process (which may be via submissions collated by country teams). For example, for the first cycle of review, 68 UN entities, including 44 UN country teams, engaged with UPR by submitting over 300 reports for 156 countries. In the second cycle, there were 484 submissions from 107 UN entities, including 94 UN country teams and in the third cycle, submissions were received from 123 UN entities, including 107 UN country teams (OHCHR 2023a: para 4). Active and strategic input from UN entities and country teams is warranted and has been called for by the OHCHR (OHCHR 2023a: para 3). And some UN entities have themselves recognised the value of submitting contributions. For example, UNICEF has noted that its ‘inputs provide an opportunity for sharing information on progress made by the Government to improve specifically the situation of child rights in the country, for flagging any issues of concern not addressed since the previous reviews and proposing recommendations to address those challenges’ (UNICEF: 3; WHO 2019). Similarly, civil society – including national human rights institutions – can and should draw on their knowledge of UN actors in their submissions for the OHCHR’s ‘stakeholder’ report (Dominguez-Redondo and Smith 2024: 144).

However, input alone is insufficient. Even where references are made to specific UN initiatives in the reports forming the basis of the review, these are frequently not drawn on by recommending states. The contributions made in the first three cycles do not seem to spark recognition on the part of these states and their representatives. Certainly, they do not seem to consistently view these bodies and their work as worthy of reference in their recommendations. States, themselves, must also be willing to explicitly recognise that these entities can and do contribute to the protection of human rights.

Finally, it is important to stress that there should be explicit references to relevant entities and their outputs, rather than generic references to the ‘UN human rights system’ or ‘relevant human rights standards’. Recommendations need to be precise to be of value.²⁰ Detailed and specific recommendations will serve to acknowledge the contribution of an entity or an output to the enjoyment of human rights. They will direct

¹⁹ There is a further question of whether the OHCHR will actually refer to the relevant UN entity in its compilation: ‘Another concern was choosing the most appropriate and legitimate human rights entity to quote. A long time was spent discussing whether it was strategically more beneficial to quote the High Commissioner or the Deputy High Commissioner or simply a resolution of the HRC. Notions of neutrality and authority informed these discussions’ (Billaud 2015: 79).

²⁰ This aligns with calls for states to ensure that recommendations are SMART (Specific, Measurable, Achievable, Relevant and Time-bound) (UPR Info: 2015).

states to the most appropriate UN work in the area under scrutiny. And, beyond this, as the Secretary-General's Call to Action identifies, such recommendations will also contribute to the systematization - and coordination – of UN action in the area. UPR recommendations can provide an entry point for UN entities in their engagement with states and establish priorities for country programmes;²¹ where an entity or its outputs are mentioned explicitly this will add to the legitimacy of such advocacy efforts (Oestreich 2024). In this way, the work of the UN entities will properly be reinforced.

5. Conclusion

As the fourth cycle of UPR commences, it is timely to see how the process has – and may – serve to *complement* the UN's work in human rights. There is potential for the process to reinforce and even coordinate the work of *all* UN entities that are engaged in human rights work. This is particularly important given that the UN's human rights work was never designed as a 'system': various parts of the UN undertake different – and sometimes overlapping – types of work for the promotion and protection of human rights.

The potential for UPR to complement such action was recognised from its creation and continues to be promoted across the UN, including at the most senior level with the Secretary-General's Call to Action. Examining recommendations from the first three cycles of the UPR suggests that there has been some limited realisation of its objective to complement the work of human rights mechanisms. States have called on each other to work with and implement the outputs of certain 'mechanisms': reinforcement of the work of the UN treaty bodies and the special procedures and implementation of norms adopted by the GA appears to be the priority. However, the objective of UPR to 'encourage full cooperation and engagement with the Council...and the Office of the United Nations High Commissioner for Human Rights' has not yet been met to any meaningful extent. And beyond these 'core' human rights bodies, there is room for better engagement with other UN entities, such as the specialized agencies, that can and do seek to promote the enjoyment of human rights. UPR recommendations should explicitly refer states to the work of these entities. This, in turn, may provide an entry point for some of these entities to engage with states and will promote the normative human rights work done by different entities across the institution. However, this will only be achieved with greater knowledge and awareness of the human rights work of *all* UN entities, alongside a willingness to promote such work in UPR recommendations. Only then can the objectives of the UPR and the Secretary-General's Call to Action be fully realised.

Bibliography

Websites provided for information only: all last accessed 24 April 2024.

Alston P. 2020. The Committee on Economic, Social and Cultural Rights. In F. Mégret and P. Alston (eds), *The United Nations and Human Rights* Oxford: Oxford University Press.

Alston P. and Mégret F. 2020. Introduction; Appraising the United Nations Human Rights Regime. In F. Mégret and P. Alston (eds), *The United Nations and Human Rights* Oxford: Oxford University Press.

Bantekas I. and Oette L. 2020. *International Human Rights Law and Practice* Cambridge: Cambridge University Press.

Bernaz N. 2009. Reforming the UN Human Rights Protection Procedures: A Legal Perspective on the Establishment of the Universal Periodic Review Mechanism. In K. Boyle (ed), *New Institutions for Human Rights Protection* Oxford: Oxford University Press.

Billaud J. 2015. Keepers of the truth: producing ‘transparent’ documents for the Universal Periodic Review. In H. Charlesworth and E. Larking (eds), *Human Rights and the Universal Periodic Review: Rituals and Ritualism* Cambridge: Cambridge University Press.

Carraro V. 2019. Promoting Compliance with Human Rights: The Performance of the United Nations’ Universal Periodic Review and the Treaty Bodies. *International Studies Quarterly* 63: 1079.

Carraro V. 2022. The more the better? The complementarity of United Nations Institutions in the fight against torture. *Netherlands Quarterly of Human Rights* 40: 354.

Charlesworth H. and Larking E. 2015. Introduction: the regulatory power of the Universal Periodic Review. In H. Charlesworth and E. Larking (eds), *Human Rights and the Universal Periodic Review: Rituals and Ritualism* Cambridge: Cambridge University Press.

Chen C.W. and Renteln A.D. 2023. *International Human Rights. A Survey* Cambridge: Cambridge University Press.

Clapham A. 1994. Creating the High Commissioner for Human Rights: The Outside Story. *European Journal of International Law* 5: 556.

Clapham A. 2020a. The General Assembly. In F. Mégret and P. Alston (eds), *The United Nations and Human Rights* Oxford: Oxford University Press.

Clapham A. 2020b. The High Commissioner for Human Rights. In F. Mégret and P. Alston (eds), *The United Nations and Human Rights* Oxford: Oxford University Press.

Connors J. and Shah S. 2022. United Nations. In D. Moeckli, S. Shah and S. Sivakumaran (eds), *International Human Rights Law* Oxford: Oxford University Press.

Danish Institute for Human Rights. The Human Rights Guide to the Sustainable Development Goals. <https://sdg.humanrights.dk/>

Dominguez-Redondo E. and Smith R. 2024. Searching for Recommendation Alignment across UN Human Rights Bodies. In D. Etone, A Nazir and A. Storey (eds), *Human Rights and the UN Universal Periodic Review Mechanism: A Research Companion* London: Routledge.

Eide A. and Eide W.B. 2022. Adequate Standard of Living. In D. Moeckli, S. Shah and S. Sivakumaran (eds), *International Human Rights Law* Oxford: Oxford University Press.

Evans C. 2020. The Committee on the Rights of the Child. In F. Mégret and P. Alston (eds) *The United Nations and Human Rights* Oxford: Oxford University Press.

Gaer F.D. and Broecker C.L. (eds). 2013. *The United Nations High Commissioner for Human Rights: A Conscience for the World*.

Genser J. and Stagno Ugarte B. (eds). 2014. *The United Nations Security Council in the Age of Human Rights* Cambridge: Cambridge University Press.

Hunt P. 2017. Configuring the UN Human Rights System in the ‘Era of Implementation’: Mainland and Archipelago. *Human Rights Quarterly* 39: 489.

Kälén W. and Künzli J. 2019. *The Law of International Human Rights Protection* Oxford: Oxford University Press.

Kędzia Z. 2009. Mainstreaming Human Rights in the United Nations. In G. Alfredsson, J. Grimheden, B.G. Ramcharan and A. Zayas (eds), *International Human Rights Monitoring Mechanisms: Essays in Honour of Jacob Th Möller* Leiden: Martinus Nijhoff.

Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970) [1971] ICJ Reports 16.

McMahon E. R. 2012. *The Universal Periodic Review: A Work in Progress*. Berlin/Geneva: Friedrich-Ebert-Stiftung.

Mégret F. 2020a. The Security Council. In F. Mégret and P. Alston (eds), *The United Nations and Human Rights* Oxford: Oxford University Press.

Mégret F. 2020b. The Economic and Social Council. In F. Mégret and P. Alston (eds), *The United Nations and Human Rights* Oxford: Oxford University Press.

Nowak M., Januszewski K.M. and Hofstätter T. 2012 *Human Rights for All, Vienna Manual on Human Rights* Graz: Intersentia.

Oberleitner G. 2008. A Decade of Mainstreaming Human Rights in the UN: Achievements, Failures, Challenges. *Netherlands Quarterly of Human Rights* 26: 359.

Oestreich J. E. 2024. Closing the circle of implementation: the sustainable development goals, universal periodic review, and the rights-based approach to development. *The International Journal of Human Rights* 28: 69.

OHCHR website. <https://www.ohchr.org/en/instruments-and-mechanisms>.

OHCHR 2002. Recommended Principles and Guidelines on Human Rights and Human Trafficking. E/2002/68/Add.1.

OHCHR 2007. Updated Compilation of Proposals and Relevant Information on the Universal Periodic Review.

OHCHR 2012. Human Rights Indicators: A Guide for Measurement and Implementation. HR/PUB/12/5.

OHCHR 2015. Commissions of Inquiry and Fact-finding Missions on International Human Rights and Humanitarian Law: Guidance and Practice. HR/PUB/14/7.

OHCHR 2016. National Mechanisms for Reporting and Follow-up: A Practical Guide to Effective State Engagement with International Human Rights Mechanisms. HR/PUB/16/1.

OHCHR 2020. Maximising the use of the Universal Periodic Review at country level. https://www.ohchr.org/sites/default/files/Documents/HRBodies/UPR/UPR_Practical_Guidance.pdf

OHCHR 2023a. Universal Periodic Review (Fourth Cycle). Information and guidelines for UN Resident Coordinators, UN Country Teams and UN entities' written submissions to the UPR Compilation.

OHCHR 2023b. 4th Cycle Universal Periodic Review National Report – Guidance Note.

O'Rourke C. and Swaine A. 2018. CEDAW and the Security Council: Enhancing Women's Rights in Conflict. *International and Comparative Law Quarterly* 67: 167.

O'Rourke C. and Swaine A. 2020, Protecting Women's Rights in Conflict: New Developments and Next Steps in the Synergy between CEDAW and the WPS Agenda. *LSE Centre for Women, Peace and Security Working Paper* 26/2020. <https://www.lse.ac.uk/women-peace-security/assets/documents/2020/WPS26ORourkeSwaine.pdf>.

Rodley N. 2012. UN Treaty Bodies and the Human Rights Council. In H. Keller and G Ulfstein (eds), *UN Human Rights Treaty Bodies: Law and Legitimacy* Cambridge: Cambridge University Press.

Samarsinghe N. 2018. Human Rights: Norms and Machinery. In Thomas G. Weiss and Sam Daws (eds), *The Oxford Handbook on the United Nations* Oxford: Oxford University Press.

Shah S. and Sivakumaran S. 2021. The Use of International Human Rights Law in the Universal Periodic Review. *Human Rights Law Review* 21: 264.

Schabas WA. 2021. *The Customary International Law of Human Rights* Oxford: Oxford University Press.

Smith R. 2021. *International Human Rights Law* Oxford: Oxford University Press.

Swepston, L. 2019. How the ILO Embraced Human Rights. In J. R. Bellace and B. ter Haar (eds), *Research Handbook on Labour, Business and Human Rights Law* Cheltenham: Edward Elgar.

Tistounet E. 2020. *The UN Human Rights Council. A Practical Anatomy* Cheltenham: Edward Elgar.

Tomuschat C. 2014, *Human Rights. Between Idealism and Realism* Oxford: Oxford University Press.

UN CEDAW. 2013. General Recommendation No 30. CEDAW/C/GC/30.

UN CEDAW. 2017. General Recommendation 36. CEDAW/C/GC/36.

UN CERD. 2009. General Recommendation 33. CERD/C/GC/33.

UN CERD. 2021. Guidelines on the elaboration of general recommendations. CERD/C/504.

UN CESCR. 1990. General Comment 2. E/1990/23.

UN CESCR. 1991. General Comment 4. E/1992/23.

UN CESCR. 1999. General Comment 12. E/CN.12/1999/5.

UN CESCR. 2016. General Comment 22. E/CN.12/GC/22.

UN CMW. 2010. General Comment 1. CMW/C/GC/1.

UN CRC. 2002. General Comment 2. CRC/GC/2002/2.

UN CRC. 2017. General Comment 21. CRC/C/GC/21.

UN CRPD. 2016. General Comment 4. CRPD/C/GC/4.

UNDP, OHCHR and DCO. 2022. UN Good Practices. How the Universal Periodic Review Supports Sustainable Development.

UN Economic and Social Council. 1984. Resolution 1984/50, Safeguards guaranteeing protection of rights of those facing the death penalty. E/RES/1984/50.

UN General Assembly. 1993. Resolution 48/134 on National Institutions for the Promotion and Protection of Human Rights. A/RES/48/134.

UN General Assembly. 1999. Resolution 53/144 on Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. A/RES/53/144.

UN General Assembly. 2000. Resolution 55/2. Millennium Declaration. A/RES/55/2.

UN General Assembly. 2005. Resolution 60/1 on World Summit Outcome. A/RES/60/1.

UN General Assembly. 2006. Resolution 60/251 on Human Rights Council. A/RES/60/251.

UN General Assembly. 2007. Resolution 61/295. United Nations Declaration on the Rights of Indigenous Peoples. A/RES/61/295.

UN General Assembly. 2010. Resolution 65/229 on United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). A/RES/65/229.

UN General Assembly. 2015a. Resolution 70/175 on United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). A/RES/70/175.

UN General Assembly. 2015b. Resolution 70/1 on Sustainable Development Goals. A/RES/70/1. UN General Assembly. 2016. Resolution 70/262 on Review of the United Nations Peacebuilding Architecture. A/RES/70/262.

UN HRC. 2019. General Comment 36. CCPR/C/GC/36.

UN Human Rights Council. 2006. Implementation of General Assembly Resolution 60/251 of 15 March 2006 entitled 'Human Rights Council; 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, Summary of the discussion prepared by the Secretariat. A/HRC/3/CRP.1.

UN Human Rights Council. 2007. Resolution 5/1. Institutions-building of the United Nations Human Rights Council. A/HRC/RES/5/1.

UN Human Rights Council. 2008a. Modalities and practices for the universal periodic review process. 8/PRST/1.

UN Human Rights Council. 2008b. Resolution 9/12. Human rights voluntary goals. A/HRC/RES/9/12.

UN Human Rights Council. 2010. Report of the Working Group on the Universal Periodic Review – Guinea. A/HRC/15/4.

UN Human Rights Council. 2011a. Resolution 16/21. Review of the work and functioning of the Human Rights Council. A/HRC/RES/16/21.

UN Human Rights Council. 2011b. Resolution 17/4. Guiding Principles on Business and Human Rights. A/HRC/RES/17/4.

UN Human Rights Council. 2012. Report of the Working Group on the Universal Periodic Review - United Kingdom. A/HRC/21/9.

UN Human Rights Council. 2013. Report of the Working Group on the Universal Periodic Review - Colombia. A/HRC/24/6.

UN Human Rights Council. 2015a. Report of the Working Group on the Universal Periodic Review – United States of America. A/HRC/30/12.

UN Human Rights Council. 2015b. Report of the Working Group on the Universal Periodic Review – United States of America, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review. A/HRC/30/12/Add.1.

UN Human Rights Council. 2016. Report of the Working Group on the Universal Periodic Review – Mozambique. A/HRC/32/6.

UN Human Rights Council. 2021. Report of the Working Group on the Universal Periodic Review – Saint Lucia. A/HRC/47/9.

UNICEF. Universal Periodic Review (UPR). <https://www.unicef.org/documents/universal-periodic-review-upr>.

UN Sustainable Development Group. Human Rights-Based Approach <<https://unsdg.un.org/2030-agenda/universal-values/human-rights-based-approach>>

UN Secretary-General. 1997. Renewing the United Nations: A Programme for Reform, Report of the Secretary-General. A/51/950.

UN Secretary-General. 2002. Strengthening of the United Nations: An Agenda for Further Change. A/57/387.

UN Secretary-General. 2014. Rights up Front. <<https://www.refworld.org/pdfid/549141f84.pdf>>.

UN Secretary-General. 2020a. The Highest Aspiration: A Call to Action for Human Rights. <https://www.un.org/en/content/action-for-human-rights/index.shtml>

UN Secretary-General. 2020b. Women and peace and security. S/2020/946.

UN Security Council. 2000. Resolution 1325. S/RES/1325.

UN Security Council. 2005. Resolution 1612. S/RES/1612.

UN Security Council. 2008. Resolution 1820. S/RES/1820.

UN Security Council. 2013. Resolution 2122. S/RES/2122.

UN Security Council. 2016a. Resolution 2282. S/RES/2282.

UN Security Council. 2016b. Aria Formula meeting on Synergies between Security Council Resolutions on Women, Peace and Security and the Convention on Elimination of All Forms of Discrimination Against Women.

UN Security Council President. 2004. Statement by the President of the Security Council. S/PRST/2004/40.

UN Women 2015, *Guidebook on CEDAW General Recommendation 30 and the UN Security Council Resolutions on Women, Peace and Security*.

Universal Rights Group. 2016. The Human Rights Council as a Subsidiary Organ: Evaluating its Relationship with the UN General Assembly and UN Security Council. <https://www.universal-rights.org/wp-content/uploads/2016/11/Policy-Paper-HRC-as-a-subsiary-organ.pdf>

UPR Info. 2015. For impact on the ground the UPR needs SMART recommendations. <https://upr-info.org/en/news/impact-ground-upr-needs-smart-recommendations>.

UPR Info. 2020. Framing the Picture: UPR Info Database Action Category. <https://upr-info.org/en/news/framing-picture-upr-info-database-action-category>.

Van Weerelt P. and Ismalebbe Z. 2009. The Normative Impact of Human Rights on Programming in the UNDP. In G. Alfredsson, J. Grimheden. B.G. Ramcharan and A. Zayas (eds), *International Human Rights Monitoring Mechanisms: Essays in Honour of Jakob Th Moller* Leiden: Martinus Nijhoff.

WHO. 2019. Advancing the right to health through the Universal Periodic Review.

Figures and Tables

Figure 1: Number of recommendations that refer to each entity or its outputs.

Table 1: References to the treaty bodies and their outputs

Table 2: References to country-specific special procedures

Table 3: References to thematic special procedures

Table 4: References to UN Specialized Agencies, Funds and Programmes