

Posted on

11.10.2014

Share on

- [Facebook](#)
- [Twitter](#)
- [LinkedIn](#)
- [Email](#)

The GC Research Programme on the UPR



A research on the implementation of **Universal Periodic Review** (UPR) process across the world, has been recently completed by researchers linked to the Global Campus of Master's Programmes and Diplomas in Human Rights and Democratisation (GC). The report makes a contribution to the increasing literature on the UPR and its role in the realisation of human rights.

The (UPR) is a process which seeks to regularly review the human rights situation in all UN member states. Under this mechanism, each state prepares a national report, while the OHCHR prepare a report covering views expressed by UN treaty monitoring bodies and special procedures and another report consolidating what 'stakeholders' and national and international NGOs views. The state is then reviewed in a 3-hour interactive dialogue where the state presents its report and other states ask questions and make recommendations.

What is the nature of the recommendations given to the state? To what extent do the recommendations on treaty ratification and legislative and policy action reflect the main concerns of national human rights organisations (NGOs and NHRIs)? What process has the state followed for implementation of UPR recommendations? These were some of the questions addressed by the research which considers level of implementation of recommendations in 21 countries: six in Africa, three in Asia, nine in Europe and three in the Americas.

Each Master's programmes of the GC selected a regional coordinator to coordinate a team of national reporters preparing a regional report covering three to five states in the region, while the overall coordination of the research was ensured by Dr. Magnus Killander of the University of Pretoria. The reports prepared by states and national stakeholders and the outcome documents setting out the recommendations form the basis for the research. This has been complemented by other material such as the mid-term implementation reports produced by the Geneva-based NGO UPR info, including information provided to UPR info by CSOs and in some instances states for 144 states reviewed under UPR.

With the exception of the Asia report, the regional reports consider concrete recommendations to take legislative and policy action in all thematic areas. The current research considers two sets of concrete recommendations, ratification of treaties and adoption of legislation or policy. The ratification of 'core international human rights instruments' and the '[strengthening of the legal, institutional and policy framework at the national level]' has been highlighted by the Human Rights Council as important goals towards the realisation of human rights (HRC res 9/12, Human rights voluntary goals).

A relatively large proportion of recommendations are calling on states to ratify treaties. Some would argue that the recommendations for ratification of treaties are useless as states simply ratify treaties as window dressing without any intention of implementing the provisions. This may be a valid point in some instances but clearly not in all. Indeed, it is clear that the refusal of most states to ratify some treaties, for example the Migrant Workers Convention (ICRMW) is because they consider such treaties to go beyond what they find acceptable in relation to the rights protected. Some states, in particular EU member states, indicate that ratification of treaties can only take place after they have ensured that the national legislative and policy framework is in line with the treaty.

It is clear from the study that it is not only international treaties that states fail to comply with. Many states may adopt human rights compliant legislation and policy but fail to implement it. Indeed, implementation of existing legislation and policy seem in many states to be a more common problem than non-existent or inadequate legislation or policy. However, it is also clear that if there is no legislation or policy it cannot be implemented. Lack of implementation may be deliberate but can also be a result of inadequate institutional capacity. Many recommendations would be expensive to fully implement and while some donors such as the EU has officially committed to support implementation of UPR recommendations in third states, the extent to which this is actually happening is not clear. The UN voluntary trust fund for financial and technical assistance in relation to UPR has received modest contributions from a few states.

Of course legislation and policy cannot only be used to promote human rights but also to violate them. Hardly surprising the more repressive a state, the less likely it is to accept recommendations in relation to controversial legislation or policy which violates human rights. Other states may refuse to take a stand with regard to controversial bills or legislation stating that the national discussion is still on going. Particularly controversial proposals with regard to legislation and policy are rejected or left without response by many states. The clearest example is decriminalization of consensual same-sex relations and other recommendations related to sexual orientation and gender identity. Only states which are candidates to become members of the EU take these recommendations seriously, while pointing out that societal attitudes make implementation of anti-discrimination legislation and policy difficult. Indeed as illustrated by Nigeria, leaders may use rejection of controversial recommendations to score political points at home.

A certain amount of pat on the back recommendations exists, but overall the number of recommendations has increased since the early days of the UPR. While many are repetitive, the increased number of recommendations has also allowed for a more comprehensive coverage of relevant human rights issues. It would be useful if states coordinated so to avoid recommendations which do not make sense and mitigate the often politicized use of the UPR recommendations.

Civil society plays an important role in bringing to the fore whether the information provided by the state in their national report is accurate and in raising important human rights concerns. However, in many states more could be done by NGOs both to influence the recommendations made by states in relation to their own country but also to influence their own government's recommendations in relation to other states by highlighting concerns of NGOs in other countries. This has for example been done by the Brazilian NGO Conectas in relation to Brazil's recommendations to a number of states in recent years (Camila Asano, Conectas, Pretoria, May 2014).