POLICY AND PRACTICE NOTE

Opportunities for Nongovernmental Organization Advocacy in the Universal Periodic Review Process at the UN Human Rights Council

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Abstract

The Universal Periodic Review (UPR) process in the UN Human Rights Council offers new high-profile opportunities for nongovernmental organization (NGO) advocacy to improve the observance of human rights. Some of the most significant opportunities lie not in the proceedings in the Human Rights Council in Geneva, but internally in societies around the world. NGOs can engage in a continuous cycle of advocacy built around UPR: advocating for national consultations, special procedure visits, and ratification of human rights treaties; submitting information to treaty monitoring bodies and in the UPR process itself; advocating for the acceptance of recommendations made in UPR and then for implementation of those recommendations. NGO submissions for use in the UPR process are published on the Office of the High Commissioner of Human Rights (OHCHR) UPR website page for the state involved, and become part of a central reference for anyone looking at the human rights record of that government. OHCHR guidelines should be followed. NGOs should lobby states to make specific recommendations to the states under review. Governments may be lobbied to accept them both at their Geneva Mission and at home in their national capitals. Recommendations should call on states to take clearly identified measures. NGOs should continue advocacy to urge states to implement the commitments they made. UPR is useful for advocacy on the full range of human rights issues. UPR provides a new opportunity to address recommendations to violator states and focus international pressure to correct abuses and unjust practices. For states truly open to improvement, UPR offers an opportunity to get the attention of high-level officials and policy-makers for human rights problems.

Keywords: human rights; Human Rights Council; NGO; United Nations

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The UN General Assembly established a new UN Human Rights Council in 2006 to replace the former Commission on Human Rights. A prominent and entirely new feature of the Council is 'Universal Periodic Review' (UPR), a procedure under which the human rights record of each of the 192 UN Member States is to be reviewed once every four years. This procedure provides a new opportunity for international nongovernmental organizations (NGOs) to seek commitments from states to comply with their human rights obligations. It enables national NGOs to bring their human rights concerns to the attention of their own governments, to the media and the public in their own societies, and to the international community – seeking to secure commitments from their own governments for greater observance of human rights.

From an examination of the design and structure of the UPR process, we can identify some of the factors that are more likely to win attention to the concerns of NGOs and lead to specific, actionable recommendations for improvement addressed to the states under review. We further examined the NGO submissions of information in the spring of 2008 for the second session of the Council's UPR, the reports of the Working Groups (WGs) summarizing the 'interactive dialogues' held on 5–19 May 2008, and the final outcomes adopted at the Council's plenary sessions on 9–13 June 2008 – hoping to identify patterns indicating what issues could be raised more successfully within UPR.

Sixteen states were reviewed during the second UPR session. A statistical analysis was conducted as to the success of NGOs in getting their concerns raised by UN Member States in the UPR process and having their recommendations accepted by the state under review. The analysis considered whether the nature of the issues raised was a factor in these rates of success. The data were also examined as to the specificity of the recommendations accepted by states under review when compared with the NGO contributions to the process.

In general, there was substantial success in injecting human rights concerns raised by NGOs into the UPR process, but states showed considerable resistance to accepting NGO recommendations. A total of 745 factual statements, observations, or recommendations by NGOs were included in the summaries of 'other stakeholder information' used in the UPR of the 16 states under review in the second session. Of these, 523, or 70%, correspond to the recommendations made by UN Member States to the 16 states under review during the 'interactive dialogues', and were thus included in the report of the UPR WG. While this alone is significant in bringing attention to NGO concerns, ideally many recommendations will be accepted by the states under review – providing an opportunity for follow-up action demanding that the state honour its commitment to implement the recommendations that it has accepted.

The state under review can choose to either accept or reject but should, at a minimum, note the recommendations raised by other states during the interactive dialogue and thus included in the report of the WG. In the second session, 199 of the 523 recommendations corresponding to NGO inputs

were accepted – a success rate of 38%. A total of 222 NGO concerns were not raised by Member States during the dialogue, and were therefore not addressed at all by the state under review. The overall success rate for securing commitments from states under review regarding the 745 concerns stated by NGOs was therefore 30%.

Recommendations made by states alone had a higher success rate. In addition to the 523 recommendations corresponding to NGO inputs that states raised in the interactive dialogue, there were 263 additional recommendations made by states that apparently do not parallel any issues submitted by NGOs. Of these, 150 were accepted by states under review – a success rate of 57%.[1]

A total of 1,008 issues were thus advanced during the second UPR session (523 by NGOs and raised by states in the dialogues, 222 by NGOs but not raised by states, and 263 by the states alone). Of these, 786 were included in the WG report (523 by NGOs and raised by states in the dialogues, and 263 by states although not initially raised by NGOs), and 349 were accepted by states under review – an overall success rate of 44%. The 349 recommendations accepted by the state under review represented 35% of the total of 1,008 issues injected in the process.[2]

This study identified some of the factors that might make NGOs more successful in getting their concerns raised and addressed in the UPR process and their recommendations accepted by states under review. From both the framework and structure of the UPR, and the data on the second session, some recommendations are offered as to how NGOs can make more effective use of the NGO process. The starting point is the opportunities built into the design of the UPR process.

Background and General Assembly Negotiations on the Creation of UPR and the Role of NGOs

The UN Commission on Human Rights, established in 1948, only began to address situations of human rights abuse in individual states in the 1960s. Starting initially with Chile, Israel, and South Africa, the Commission came to address a broader range of situations – causing widespread disagreement as to which situations should be addressed, but common agreement that the process had become politicized. On the one hand, many human rights advocates felt that the Commission was under-inclusive, failing to address very serious situations existing in states that were politically powerful, had politically powerful allies, or were themselves members of the Commission,

1 While no attempt was made to quantify the 'toughness' of the recommendations, general review of the data suggests that some states formulated rather softer or more friendly recommendations to allied or friendly states – which the states under review readily accepted.

2 This analysis ignores the issues raised in treaty body and special procedure recommendations, and other UN information, except to the extent raised by NGOs or states during the process.

whereas many UN Member States claimed the Commission was too confrontational or selective, particularly in ways that represented a bias against developing states.

Leading up to a summit of world leaders to be held at the UN in 2005, a senior commission of diplomats and experts recommended, as part of wide range of reforms of the UN, that some of the problems of the 53-member Commission be addressed by replacing it with a universal body including all UN Member States.[3] In one of his more significant departures from that 'High-Level Panel' report, then UN Secretary-General Kofi Annan instead recommended that the Commission be replaced with a smaller Council whose members would require a two-thirds supermajority of the General Assembly to win election.[4]

As there was great disagreement whether the Commission had been too over-inclusive and/or confrontational, or too under-inclusive and/or deferential, in addressing human rights situations in different states around the world, the concept of a system that would review all Member States on an equal basis had potential appeal to both groups. In a speech to the Commission on Human Rights in April 2005 and an addendum to his report 'In Larger Freedom', Annan embraced this concept, proposing that the new Council should have 'a peer review function . . . to evaluate the fulfillment by all states of their human rights obligations' under which 'every Member State could come up for review on a periodic basis'.[5] The primary role of Member States would likely be retained by a procedure in which the review was to be conducted by 'peers', but subjecting all states to review would diminish the incentive for states to seek membership on the new body to protect themselves or allied states from criticism.

Annan made a strong statement of the advantages to be offered by peer review:

> Crucial to peer review is the notion of universal scrutiny, that is, that the performance of all Member States in regard to all human rights commitments should be subject to assessment by other States. The peer review would help avoid, to the extent possible, the politicization and selectivity that are hallmarks of the Commission's existing system. It should touch upon the entire spectrum of human rights, namely, civil, political, economic, social and cultural rights. The Human Rights Council will need to ensure that it develops a system of peer review that is fair, transparent and workable, whereby States are reviewed against

3 Report of the High-Level Panel on Threats, Challenges and Changes, A More Secure World: Our Shared Responsibility (2 December 2004), A/59/565, para. 285 at page 89.

4 In Larger Freedom: Towards Development, Security and Human Rights for All (2005) http://www.un.org/largerfreedom/contents.htm at para. 183.

5 Addendum 1 to In Larger Freedom: Human Rights Council, Explanatory Note by the Secretary-General, The Secretary-General's proposal (14 April 12005), http://www.un.org/largerfreedom/add1.htm at para. 6.

> the same criteria. A fair system will require agreement on the quality and quantity of information used as the reference point for the review. In that regard, the Office of the High Commissioner could play a central role in compiling such information and ensuring a comprehensive and balanced approach to all human rights. The findings of the peer reviews of the Human Rights Council would help the international community better provide technical assistance and policy advice. Furthermore, it would help keep elected members accountable for their human rights commitments.[6]

Following Annan's report, negotiations ensued among the UN Member States as to the reform of the Commission and the nature of a new Human Rights Council to replace it. Various provisions envisioning a 'peer' or 'periodic' universal review process were included in different drafts of the outcome statement discussed at the 2005 World Summit. The final outcome statement adopted by the summit on 15 September 2005 contained only the most basic provision for a new Human Rights Council that would be empowered to address situations of human rights abuse, but made no mention of any universal review procedure nor of the participation to be allowed NGOs. All details of the Council were left to continuing negotiations in the General Assembly.[7]

It was generally contemplated during the General Assembly negotiations that a new system for periodically reviewing the human rights records of all Member States would be a prominent feature of the new Council,[8] but only a very basic statement on the nature of the process was agreed upon. General Assembly Resolution 60/251 was adopted on 15 March 2006 – establishing the Human Rights Council effective from 19 June 2006.[9] The Resolution provided only minimum guidelines for a UPR process, leaving the development of its 'modalities' to the Council itself, and making no specific provision to the participation of NGOs in the process. Paragraph 5(e) provided that the Council shall

> Undertake a universal periodic review, based on objective and reliable information, of the fulfilment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States; the review shall be a cooperative mechanism, based on an interactive dialogue, with the full involvement of the country concerned and

6 Id. Para. 8.

7 2005 World Summit Outcome (15 September 2005), A/60/L.1 at paras. 157–60.

8 The Options Paper presented by the President of the General Assembly on 3 November 2005, and all draft texts released by the President and his designated co-chairs for the negotiations, contained a provision for universal review.

9 A/Res/60/251 (2006), online at http://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf.

> with consideration given to its capacity-building needs; such a mechanism shall complement and not duplicate the work of treaty bodies; the Council shall develop the modalities and necessary time allocation for the universal periodic review mechanism within one year after the holding of its first session.

One basic question in those negotiations was whether the new Council would be a new principal organ of the UN – as are the Security Council and the General Assembly – or a subsidiary organ of the General Assembly? In the end it was decided to make the new body a subsidiary of the General Assembly – with that status to be reviewed after five years. This had immediate implications for the role of NGOs, which then had to be addressed in the negotiations.

The former UN Commission on Human Rights, as a subsidiary organ of the UN Economic and Social Council (ECOSOC), allowed considerable participation to NGOs, as contemplated by Article 71 of the UN Charter.[10] Implementing Article 71, ECOSOC established more specific arrangements governing NGO participation in its Resolution 1296 (XLIV) in 1968, and revised those arrangements in its Resolution 1996/31 in 1996. Depending on its level of NGO accreditation with the UN – General, Special, or Roster – NGOs had varying levels of rights to suggest agenda items for ECOSOC bodies, attend public meetings, submit written statements for consideration, or make oral presentations at public meetings.

There is no provision in the UN Charter for General Assembly consultation with NGOs. Indeed, the main committees of the General Assembly do not generally allow any participation by NGOs. This issue was recognized early in the negotiations to create the Council, and the various drafts of the resolutions establishing the Council generally provided for NGO consultation comparable with that enjoyed at the former Commission.

Paragraph 5(h) of General Assembly Resolution 60/251 required the Council to '[w]ork in close cooperation in the field of human rights with Governments, regional organizations, national human rights institutions *and civil society*' [italics added]. Paragraph 11 specifically modified the General Assembly rules of procedure applicable to the Council to carry over the arrangements and practices of the former Commission regarding NGOs:

> *Decides* that the Council shall apply the rules of procedure established for committees of the General Assembly, as applicable, unless subsequently otherwise decided by the Assembly or the Council, and also decides that the participation of and consultation with observers,

10 Article 71 of the UN Charter provides: 'The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned'.

> including States that are not members of the Council, the specialized agencies, other intergovernmental organizations and national human rights institutions, as well as non-governmental organizations, shall be based on arrangements, including Economic and Social Council resolution 1996/31 of 25 July 1996 and practices observed by the Commission on Human Rights, while ensuring the most effective contribution of these entities.

As the UPR procedure did not exist in the former Commission, there was no precedent for how NGOs should be permitted to participate in the process. The Council itself would have to determine how NGOs would participate as part of its development of the modalities of the new UPR process.

Council Formulation of the Modalities for UPR

Upon convening in June 2006, the Council established an open-ended working group to formulate the modalities for UPR,[11] and there ensued a year of informal discussions and formal negotiations within the Council. NGOs participated in the Council discussions, and they and many human rights experts had ambitious ideas for a procedure that would rely heavily on independent experts to put an assessment of the country under review before the Council and shape the discussion. In a joint statement delivered at the Council's First Session on 27 June 2006,[12] Human Rights Watch, the International Service for Human Rights, the International Federation for Human Rights, and the Association for the Prevention of Torture proposed

> that the Council designate a session rapporteur, or a panel of experts, from a list of independent experts provided by the Office of the High Commissioner for Human Rights, to assemble all relevant recommendations of treaty bodies and special procedures, reports of the Office of the High Commissioner for Human Rights and relevant U.N. components, as well as NGOs' and national human rights institutions' reports, and prepare a background note and questions for the state under review.

The NGO joint statement proposed that the 'process should allow for both presentations and questions' by NGOs and Member States. In a Background Paper issued in August 2006, Human Rights Watch elaborated on key elements desirable in the NGO process, including the 'appointment of an expert or panel of experts who will review the compiled materials and distill this material into a list of key issues for review and questions to be addressed by the government', and 'an appropriate role for NGOs, including the possibility to submit reports for consideration, and the ability to participate in UPR discussions'.[13]

11 Council Dec. 1/103 (30 June 2006), A/61/53 at 34.

12 http://www.hrw.org/en/news/2006/06/27/universal-periodic-review-mechanism.

13 http://www.hrw.org/en/news/2006/08/18/universal-periodic-review.

During the negotiations over the following ten months, Member States developed a state-dominated process with a more limited role for NGOs. The basis and procedures for UPR were specified as part of the 'Institution-building' package adopted by the Council in Resolution 5/1 on 18 June 2007.[14] The procedures provided that there would be three 2-week sessions of the full Council sitting as a WG each year, with 48 states reviewed each year, so that each UN Member State would be reviewed once every four years.[15] The state under review is required to submit a national report of the state, not to exceed 20 pages. Providing an important opportunity for NGOs, paragraph 15(a) 'encouraged' states 'to prepare the information through a broad consultation process at the national level with all relevant stakeholders'.

There was a clear victory for NGOs in providing a direct channel for the input of NGO information into the UPR process. Early negotiations in the General Assembly had contemplated reliance only on the state report and official UN inputs,[16] whereas later drafts of the founding resolution, and Resolution 60/251 as adopted, were silent as to what documentation would go into the UPR process. Paragraph 15(c) of the Council's institution-building resolution provided that in addition to the report of the state under review, and a compilation prepared by the Office of the High Commissioner of Human Rights (OHCHR) of relevant official UN documents including the reports of treaty bodies and special procedures, UPR would be based on:

> Additional, credible and reliable information provided by other relevant stakeholders to the universal periodic review which should also be taken into consideration by the Council in the review. The Office of the High Commissioner for Human Rights will prepare a summary of such information which shall not exceed 10 pages.[17]

UPR being a new procedure, there was no precedent for the role NGOs may play in UPR under the 'practices observed by the Commission on Human Rights' – as required by General Assembly Resolution 60/251 which established the Council. The Council itself then made the choice to

14 HRC Resolution 5/1, 'Institution-building of the United Nations Human Rights Council'.

15 HRC Resolution 5/1, Para. 14.

16 See President of the General Assembly's 'Option Paper: Human Rights Council' (3/11/05) and 'Compilation Text: Human Rights Council' (28/11/05) para. OP6 (d)(ii). The negotiation co-chair's draft text of 11/12/05 contemplated allowing inputs by the state under review, the UN High Commissioner for Human Rights, and '[o]ther concerned organizations that the Council may deem appropriate', but this was stripped from subsequent draft texts and the final resolution as adopted.

17 HRC Resolution 5/1, Para. 15(c). Although the stakeholder compilation is limited to half the length of the national report, the reports 'do not have a hierarchy, thus distinguishing them from the State report and NGO shadow reports to Treaty Bodies'. Rachel Brett, 'Digging Foundations or Trenches: UN Human Rights Council: Year 2' (Quaker United Nations Office, Geneva, August 2008).

allow NGOs only to attend and observe the WG review sessions, but not to present information, ask questions, or otherwise participate actively. While both member and observer states of the council could participate in the interactive dialogue, other stakeholders, including NGOs, are permitted only to attend these sessions without participating. As the final outcome sessions are adopted in plenary sessions of the Council, however, the Council has allowed NGOs to participate in those sessions, as they would in other plenary sessions.

By lot, three rapporteurs (the 'Troika') are to be chosen from Council Member States in three of the five UN regional groups to facilitate the review sessions (with the state under review entitled to request that one of the rapporteurs be from its own region, and also allowed the rejection of one rapporteur). Three hours were allowed for the review session of each country, a half an hour for adoption of the proposed outcome statement in the WG, and one hour for consideration and adoption of the outcome statement in a plenary session of the Council.

One way where UPR clearly broadens the opportunities for NGO participation is in allowing national (domestic) NGOs from the country under review, being 'other relevant stakeholders', to submit information into the UPR process – whether or not they have gone through the long and sometimes difficult process of being accredited by the UN as NGOs with official consultative status under ECOSOC Resolution 1996/31. However, speaking in the plenary session, where the outcome statement is adopted, is limited to officially UN-accredited NGOs.

While far from the ideal procedure desired by NGOs, UPR nonetheless does provide significant opportunities for NGOs to raise their concerns before the highest level inter-governmental human rights body. HRC resolution 5/1 provides a variety of points where NGOs can intervene directly or indirectly in the process – some beginning years before the review process itself and others in the immediate period before the review process or during the process:

(a) By advocating for national consultations prior to the preparation of the national report of the country under review, and where held, participating in those consultations and raising their concerns.
(b) By otherwise raising, through lobbying, the media or NGO-sponsored events, human rights concerns within the country under review during the period leading up to preparation of the national report, and seeking to have their government address those concerns in its national report.
(c) By submission of information to relevant UN special procedures, with the request they seek to make country visits and investigate the information, well in advance of the compilation of UN information by OHCHR for the review.

(d) By submission of information in shadow reports to UN treaty monitoring bodies for those human rights treaties to which the country under review is a party – again, planned well in advance of the review so the conclusions of the treaty bodies will hopefully be issued before the compilation of UN information by OHCHR for the review.
(e) By submission of information to national human rights institutions where existing and credible, with the request they consider and include the concerns in information they submit to OHCHR.
(f) By submission of 'relevant and credible information' concerning the country under review in a statement directly to OHCHR, to be compiled and used as part of the review process.
(g) By lobbying member and observer states of the Council to ask particular questions and make specific recommendations to the state under review in the interactive dialogue.
(h) By lobbying the three HRC member and observer states to ask particular questions or raise particular human rights concerns for the working group session.
(i) By publishing information, holding events, or lobbying the state under review to bring attention to human rights concerns and pressure the state to accept recommendations made at the working group session.
(j) If an NGO with UN consultative status, to speak at the plenary session to highlight important aspects of the review and urge the state to implement the recommendations it accepted – and whether or not accredited, to lobby member and observer states of the Council and accredited NGOs to speak at the plenary session.
(k) To publicize the information brought forth in the UPR within the state under review and urge follow-up and implementation of the recommendations in the outcome statement.

This study focused in particular on the direct submission of information by NGOs to OHCHR, as these submissions constitute the most direct NGO participation in the process, and are available online.[18] The first challenge then for NGOs is to have their concerns included in the OHCHR summary of stakeholder information to be used in the review.[19]

18 To find the original NGO submissions, go to the OHCHR documentation page for UPR at http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx, and select the country of interest. The OHCHR 'Summary of stakeholder information' is then available on links on that page, and footnote 3 to that Summary tab will provide a list of the NGO submissions and links to their full texts. This provides admirable transparency and allows continuing reference to the underlying NGO submissions for anyone concerned with the state's human rights record, but NGOs should note that there is thus no confidentiality for the information they submit.

19 It was not determined when UPR began whether the original NGO submissions would be available on the OHCHR website. In fact it has become the practice that they are, which means they are available for use by states in the UPR dialogue, or for general reference,

OHCHR Specifications for NGO Submissions

The Council adopted only brief general guidelines for the information to be used in UPR, especially in the national report of the state under review.[20] The OHCHR, charged by the Council with preparing a 10-page summary of the information provided by other stakeholders, proceeded to develop and publish its own guidelines as to how to submit information for consideration in UPR.[21]

OHCHR 'strongly encouraged' stakeholders to draft their written submissions so that they:

- were specifically tailored for the UPR;
- contained credible and reliable information on the State under review;
- highlighted the main issues of concern and identify possible recommendations and/or best practices;
- covered a maximum four-year time period;
- and did not contain manifestly abusive language.

Technical guidelines included a requirement that submissions not be longer than five pages (although a more detailed factual report may be attached), or 10 pages for submissions by coalitions of stakeholders.[22]

OHCHR must itself determine the standards for selecting and compiling the NGO information to be included within the 10-page summary of stakeholder information. One of the challenges must be to determine what information is to be deemed 'reliable and credible'. OHCHR has developed its own internal standards and practices for determining what NGO information would be included in the summaries, but these have not been publically released. Review and summary of relevant stakeholder information within OHCHR is a very labour-intensive process. As of late 2008, reportedly more than 18 staff members were involved.

Well-known and highly regarded international NGOs that have a presence in Geneva, consultative status with the UN, and are known to OHCHR staff will be more likely to be deemed credible and can be more certain that the information that they submit will be deemed credible and reliable by OHCHR staff. If the OHCHR desk officer for the state under review knows the NGO, it will also likely help. Discussions with OHCHR staff suggest

whether or not the points raised are included in the OHCHR compilation. Still, the information will be more readily consulted by states if included in the OHCHR compilation.

20 HRC Decision 6/102 (27 September 2007).

21 'Information and Guidelines for Relevant Stakeholders on the Universal Periodic Review Mechanism', online at http://www.ohchr.org/EN/HRBodies/UPR/Documents/TechnicalGuideEN.pdf, hereinafter 'OHCHR Guidelines'.

22 Further technical requirements, including the form and contents of the email transmitting the submission and the document and font format, etc. are in the 'Technical guidelines for the submission of stakeholders' information to OHCHR' also online at http://www.ohchr.org/EN/HRBodies/UPR/Documents/TechnicalGuideEN.pdf at pages 8–9.

some measures that lesser known, national, or domestic NGOs can take to have their information accepted and included by OHCHR. Submissions should fully comply with the page limits and deadlines set by OHCHR. They should be well written and state their information clearly in well-organized form. They should demonstrate knowledge of the international human rights standards applicable to the state under review – including the treaties it has ratified and any voluntary commitments it has made, in UN conferences or in pledges while running for the Human Rights Council.

It is helpful to show knowledge of international human rights mechanisms, but in particular, OHCHR will look to include in its summaries NGO information that complements rather than duplicates information compiled from within the UN system.[23] Although the OHCHR Guidelines recommend the presentation of '[k]ey national priorities as identified by stakeholders', in practice OHCHR is most likely include material that very clearly delineates facts and concerns regarding specific current human rights issues in the state under review.

Nature of NGO and Type of Submission as a Factor in OHCHR Citation

Some OHCHR staff suggested that national NGOs gain credence and inclusion in the OHCHR summary of stakeholder information by submitting jointly in a coordinated report with other national NGOs, or together with an international NGO – particularly one holding consultative status. OHCHR's written NGO guidelines state that '[s]takeholders are encouraged to consult with one another at the national level for the preparation of the UPR submissions. Joint submissions by a large number of stakeholders are encouraged'.[24] An effort was made to examine the effectiveness of different types of NGOs in making recommendations that were cited in the OHCHR summaries, and of joint versus individual submissions, by a statistical analysis of the summaries of stakeholder information for the second UPR session held in May 2008.

A total of 745 factual statements, observations, or recommendations made by NGOs to the 16 states under review during the second session of the UPR were cited in the OHCHR summaries. International NGOs with UN consultative status were cited as a source for 477 of those factual statements, observations or recommendations, while national NGOs without UN status were cited as a source as to 325. National NGOs with UN status were cited

23 The OHCHR Guidelines state that '[s]takeholders may also, if they so wish, draw attention to *specific* conclusions and recommendations made by international and regional human rights mechanisms, and refer to the extent of implementation. However, stakeholders should refrain from listing all treaties ratification, concluding observations and recommendations of the human rights treaty bodies and/or the special procedures of the HRC, as the latter are reflected in the UN compilation prepared by OHCHR'. OHCHR Guidelines, para. 11.

24 OHCHR Guidelines, para. 13.

as the source for 72 recommendations. Where OHCHR cites just one NGO for its information or recommendation, 239 international NGOs with UN consultative status were cited, while only 80 national NGOs without UN status were cited.

Joint NGO submissions were cited 242 times in the OHCHR summaries of stakeholder information. Of these joint reports, 203 were co-sponsored by national NGOs that do not have consultative status. However, citation to the joint reports occurred 156 times with an international NGO that held consultative status.

Acceptance by States and Inclusion in Outcome Statements: 'Recommendation' as the Key Word

The greatest opportunity for NGOs to get states on the record in UPR as to commitments for improvement of human rights is to urge Member States to make specific recommendations to the state under review during the interactive dialogue. The recommendations made during the interactive dialogue are compiled by the three states serving as rapporteurs (the Troika) in the WG, largely with the assistance of OHCHR, in a summary presented to the state under review.[25] This practice is especially valuable because a 'recommendation' does not need the support of a majority of the Council, but only of a single UN Member State, to be included in the WG report.

The state under review is then expected to identify each of the recommendations that it accepts. The final outcome statement is required to list all of the recommendations made, and to identify those that the state under review has accepted. As stated in the Council's 'institution-building' package which established the modalities for UPR: 'Recommendations that enjoy the support of the State concerned will be identified as such. Other recommendations, together with the comments of the State concerned thereon, will be noted. Both will be included in the outcome report to be adopted by the Council'.[26]

The President's Statement issued by the Council on 9 April 2008 elaborated on these requirements:

> The State under review is expected to examine all recommendations made, in accordance with the provisions of the annex to Council resolution 5/1. In all cases, the recommendations that enjoy the support of the State under review are to be identified as such. Other recommendations, together with the comments of the State under review, are to

25 HRC 8/PRST/1 (President's Statement), 'Modalities and practices for the universal periodic review process' (9 April 2008), paras. 8–9. Available at http://ap.ohchr.org/documents/E/HRC/p_s/A_HRC_PRST_8_1.pdf

26 HRC Resolution 5/1, para. 32.

> be noted. Both will be included in the report of the Working Group, to be adopted by the Council at its plenary session. The State under review is expected to follow up on the recommendations that enjoy its support as well as on voluntary commitments and pledges.[27]

Getting Member States to address specific actionable recommendations to the state under review and persuading the state under review to accept those recommendations in the outcome statement are thus vital to making successful use of the UPR process.

As discussed earlier, only Member States, and not NGOs, may participate in the interactive dialogue. Given the central importance of getting Member States to put recommendations to the state under review on the record during the interactive dialogue, NGOs should lobby states to do this – and also urge other NGOs to do the same. Member States may formulate recommendations from NGO factual statements and observations, but to advance specific actionable recommendations for use by states, NGOs should themselves propose such recommendations in their submissions. However, while the OHCHR guidelines encourage NGOs to 'identify possible recommendations', in practice OHCHR strongly favours clearly delineated statements of current human rights issues in the state under review rather than a list of recommendations for inclusion in its summaries. To increase the chances that OHCHR will include the NGO concern in its summary, and that Member States will use NGO information to propose specific actionable recommendations, NGOs should both provide clear statements of the facts and concerns regarding human rights situations in the state under review and propose specific recommendations for improvement.

The statistical analysis of the second UPR session supports this hypothesis. In total, 745 factual statements, observations, or recommendations made by NGOs were included in the OHCHR summaries of stakeholder information for the 16 states under review in the session. Of these, 523, or 70% of those made, correspond to recommendations made by Member States during the interactive dialogue, but 222 were not addressed in state recommendations. Only 138 of the 745 NGO issues in the OHCHR summaries were specifically denominated as 'recommendations', but a higher proportion of those, 112 out of these 138, or 81%, became state recommendations during the dialogues.

In addition to lobbying for NGO concerns to be put to the state under review during the dialogue, it is thus useful to state those concerns initially as 'recommendations' in the NGO submissions to be summarized by OHCHR.

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27 HRC 8/PRST/1, para. 10. The State may indicate its response to the recommendations at any time from the interactive dialogue until the plenary session of the HRC where the outcome statement is considered. HRC 8/PRST/1, para. 11.

Nature of the Issue as a Factor in State Acceptance of Recommendations

States may be more willing to raise NGO recommendations with regard to some issues in the interactive dialogue, and states under review may be more willing to accept recommendations on some subjects than on others. In preparing its compilations of information from the UN system, and its summaries of other stakeholder information, OHCHR breaks down the issues raised into 14 categories. States may, or may not, use the same breakdown of issue categories in their national reports. The categories are as follows:

Issue	Description
0	International framework
1	Equality and nondiscrimination
2	Right to life, liberty and security of the person
3	Administration of justice, including impunity and the rule of law
4	Right to privacy, marriage, and family life
5	Freedom of movement
6	Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life
7	Right to work and to just and favourable conditions of work
8	Right to social security and to an adequate standard of living
9	Right to education and to participate in the cultural life of the community
10	Minorities and indigenous peoples
11	Migrants, refugees and asylum seekers
12	Internally displaced persons
14	Human rights and counter-terrorism

As to each of the issue categories 0 to 14 (with 13 not used, and a few issues not categorized), the following table, derived from the accompanying spreadsheet, shows the number of recommendations in each category included in the WG report and the number (#) and percentage (%) of those accepted; the number of recommendations in the WG report made only by states and the number (#) and percentage (%) of those accepted; the number of recommendations in the WG report that correspond to information provided by NGOs and the number (#) and percentage (%) of those accepted; and the number of NGO information items *not* included in the WG report (as they were not raised by states in the interactive dialogue) as against the total number of NGO items in the OHCHR compilation, and the percentage (%) of the NGO items thus not addressed at all in the UPR process.

Issue category	Total recs	Total recs in WG report	# of WG recs accpt	% of WG recs accpt	State only recs	# of state recs accpt	% of state recs accpt	NGO-based recs in WG	# of NGO-based recs acc	% of NGO-based recs acc	NGO recs not incl in WG	Total NGO recs	% NGO recs not incl
0	154	135	68	50	78	39	50	57	29	51	19	76	25
1	120	98	51	52	37	26	70	61	25	41	22	83	27
2	228	188	76	40	38	20	53	150	56	37	40	190	21
3	160	129	55	43	41	22	54	88	33	38	31	119	26
4	30	19	2	11	3	1	33	16	1	6	11	27	41
5	2	0	0	—	0	0	—	0	0	—	2	2	100
6	61	47	19	40	12	5	42	35	14	40	14	49	29
7	20	7	4	57	1	1	100	6	3	50	13	19	68
8	87	48	31	65	20	19	95	28	12	43	39	67	58
9	35	29	15	52	12	8	67	17	7	41	6	23	26
10	44	35	4	11	11	2	18	24	2	8	9	33	39
11	31	28	12	43	5	2	40	23	10	43	3	26	12
12	8	6	5	83	1	1	100	5	4	80	2	7	29
14	21	14	7	50	4	4	100	10	3	30	7	17	41
N/C	7	3	0	0	0	0	0	3	0	0	4	7	57
Total	1,008	786	349	44	263	150	57	523	199	38	222	745	30

Some observations can be made as to the receptivity of states to NGO concerns with regard to each of these categories of issues.[28]

In the interactive dialogues, states were particularly likely to raise concerns expressed by NGOs regarding migrants, refugees, and asylum seekers (Category 11), and particularly unlikely to raise NGO concern regarding rights to work and just and favorable conditions of work (Category 7), and regarding rights to social security and an adequate standard of living (Category 8).

Of the 523 NGO concerns corresponding to recommendations made by Member States during the interactive dialogues, states under review were particularly likely to accept those regarding the international framework for human rights (Category 0), and particularly unlikely to accept those regarding rights to privacy, marriage, and family life (Category 4) and regarding minorities and indigenous peoples (Category 10).

Of the 263 recommendations made by states which do not correspond to NGO information in the OHCHR summaries, states under review were particularly likely to accept those regarding rights to social security and an adequate standard of living (Category 8), to equality and nondiscrimination (Category 1), and to education and participation in the cultural life of the community (Category 9). States under review were particularly unlikely to accept recommendations regarding minorities and indigenous peoples (Category 10).

Overall, of the 786 recommendations made in the WG reports, the states under review were particularly likely to accept those regarding rights to social security and an adequate standard of living (8), and to a considerable extent regarding rights to equality and nondiscrimination (1), and to education and participation in the cultural life of the community (9). States under review were particularly unlikely to accept recommendations regarding rights to privacy, marriage, and family life (4) and of minorities and indigenous peoples (10).

Nature and Human Rights Record of the State under Review as a Factor

The second UPR session, as indeed the earlier UPR sessions in general, was notable for reviewing states with average or better human rights records, and not the most serious violator states.[29] It may therefore be instructive for examining where UPR might in fact be most useful, for reviewing and urging improvement of the great range of human rights problems that many or most states face, in states that are reasonably willing to listen to and address the concerns of NGOs and other states.

28 The observations note the standouts well above or below the average for each of the three classes of recommendations, excluding those categories for which there were only a very small number of recommendations.

29 This may well have reflected a conscious decision by Member States to arrange the schedule to start with the less challenging situations first, and to put the more politically contentious countries off for later consideration.

The greater willingness to accept recommendations regarding social security, an adequate standard of living, and education, may reflect a broad acceptance of economic and development rights – and such recommendations are less likely to directly challenge state power.

Recommendations regarding most traditional civil and political rights (rights to life, liberty, and security of the person, to freedom of religion, belief, expression, association, peaceful assembly, and participation in public and political life, and regarding the administration of justice and the rule of law) are accepted only to a mixed extent by this average-to-better group of states under review. Still, securing commitments on these issues is very valuable to the cause of human rights.

The most contentious issues, even for this average-to-better group of states, are those where very different cultural norms may come into play (privacy, marriage, and family life issues) and those raising the rights of minority and indigenous groups within the society. Of the 17 recommendations in the WG reports regarding privacy, marriage, and family life (issue 4) not accepted by states under review, 11 dealt with issues of lesbian, gay, bisexual, and transgender (LGBT) rights, and 5 with the legal treatment of rape, adultery, polygamy, and/or fornication. Still, it is very valuable to force resistant states to respond to these issues at all in an international forum, and LGBT and women's rights advocates have seized on the opportunity that UPR provides to do so.

Of the 16 states reviewed in the second UPR session, the most severe conflict and most serious violations at that time were occurring in Sri Lanka.[30] Sri Lanka accepted 49 of the 81 recommendations made in the WG report – at 60% a higher proportion than the average of 44% by the 16 states under review during the second UPR session. Sri Lanka was most likely to reject those recommendations specifying very clearly defined measures to be taken (acceptance of OHCHR field presence; international monitoring; a standing invitation to special procedures; ratification of the International Criminal Court statute; and granting upcountry Tamils a right to vote). It broadly accepted general commitments to address issues of disappearances, torture, internally displaced persons, human rights defenders, child soldiers, and freedom of the press – all of which are grave human rights concerns in Sri Lanka. The challenge therefore is to monitor Sri Lanka's performance and pressure Sri Lanka to breathe life into these commitments. The broader lesson for NGOs and states is to formulate recommendations that are actionable and measurable rather than more general exhortations which even a violator state might accept but not carry out.

30 There were also serious human rights concerns with regard to Pakistan, which was under the military regime led by President Musharraf following a coup in 1999. The review interactive dialogue was held on 13 May 2008, while Pakistan was in flux after a new democratic government was elected in March 2008, and the recommendations did not focus heavily on the abuses of the prior military regime in the way that those regarding Sri Lanka focused on the conflict in that country.

Specificity of Recommendations in the Outcome Statements versus NGO Submissions

Although the OHCHR summaries of 'other stakeholder information' cite NGO reports, it is often difficult to distinguish what constituted an actual NGO 'recommendation' – and to what extent states relied on NGO information in formulating the recommendations they advanced in the interactive dialogues and which were thus incorporated in the WG reports. Of the 786 recommendations made by states during the dialogues in the second session, 523 appear to correspond to information provided by NGOs. Of the 786 recommendations, 263 did not appear to correspond to NGO information. Of the 523 state recommendations that do appear to correspond to NGO information, the state may have relied on the NGO information, or may have worked from the national report, or from UN information including treaty body and special procedure reports.

As fact finders, NGOs often provided a detailed account of human rights issues and violations, laws that were not enforced effectively, and specific steps that the states under review should take to ensure that the human rights of its citizens were protected. While a minority of recommendations by states addressed precise recommendations by NGOs, most of the state recommendations were vaguely worded.

Some state recommendations do appear to reflect clearly recommendations made by NGOs, and this study highlights some of those to indicate the kinds of NGO information and recommendations that can be effective in the UPR process.[31] This table compares some NGO concerns from the OHCHR summaries that may be deemed successful in leading to comparable specific recommendations made by states to the states under review:

NGO information as stated in OHCHR summaries of stakeholder information	Recommendation to state under review as listed in WG reports
Regarding France, the Islamic Human Rights Commission (IHRC) noted that 'of the 220,000 recorded discrimination cases in France in 2006, only 43 went to trial and that the successful challenge by a litigant through the courts is not encouraging'. (Summary, para 7).	Indonesia recommended 'To finalize all outstanding cases of discrimination that have occurred since 2006' (Working Group Recommendation, para 8). (not official translation)

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31 It was not deemed efficacious to attempt to compare specificity on a scale or to do a statistical analysis. To demonstrate success in advancing specific recommendations, we work from examples.

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NGO information as stated in OHCHR summaries of stakeholder information	Recommendation to state under review as listed in WG reports
Regarding France, FIACAT said that the use of guns with electrical impulsion is, according to the French government, nowadays tested in three penal establishments in spite of the position of the Committee against the Torture of United Nations according to which the usage of not lethal electrical weapon causes a high-pitched pain, constituting a form of torture, in violation of articles 1 and 16 of the Convention Against Torture (CAT). (not official translation)	Côte d'Ivoire recommended, 'To avoid experiments on detainees with electric impulsion weapons provoking acute pain, which can constitute a form of torture, in penitentiaries' (Working Group Recommendation, 17).
'26. CS indicated that while over the past 20 years, Japan has taken legislative and symbolic steps to recognize the Ainu as an indigenous people and to eliminate racial discrimination, against this particular group, it has not followed through with appropriate implementation of laws to protect the Ainu culture. The Ainu, numbering between 30,000 and 50,000, have resided for centuries on the northern Pacific island of Hokkaido. However, CS reported that the Ainu still experience discrimination as a result of Japan's mono-cultural national identity and the lack of judicial remedies to respond to discrimination. According to CS, Ainu children face discrimination in school; the Ainu language has not been incorporated in the educational curriculum; the Ainu also lack parliamentary representation. Today, the Ainu possess only ten percent of their ancestral lands. The Society for Threatened Peoples (STP) indicated that the Ainu are among Japan's poorest inhabitants. STP indicated that the Ainu are still struggling for full recognition and acceptance by the	States recommended, 'Review, inter alia, the land rights and other rights of the Ainu population and harmonize them with the United Nations Declaration on the Rights of Indigenous Peoples. (Algeria); Urge Japan to seek ways to initiating a dialogue with its indigenous peoples so that it can implement the United Nations Declaration on the Rights of Indigenous Peoples. (Guatemala)' (Working Group Recommendation, 19).

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NGO information as stated in OHCHR summaries of stakeholder information	Recommendation to state under review as listed in WG reports
Japanese society of their culture and language, and for the recognition in law of their rights as indigenous people. The JFBA also raised concerns about discrimination against the Ainu as well as against the Buraku minority'.	
'28. Amnesty International [AI] mentioned that the lesbian, gay, bisexual and transgender (LGBT) community in Romania continues to suffer identity-based discrimination. A parade called the Gayfest, organized every year in May/June by the LGBT community, has been opposed by the Orthodox Church and the local authorities on several occasions. Those participating in the parade have been attacked by counter-demonstrators throwing eggs, stones and plastic bottles at the marchers, necessitating police protection. According to ACCEPT, IGLHRC & International Lesbian and Gay Association (ILGA), effective police protection at the march needs to be accompanied by police follow up to complaints about violence'.	Finland recommended, 'To investigate and prosecute those responsible for the attacks on peaceful lesbian and gay activists and ensure that future LGBT gatherings, including the annual GayFests, are both permitted and protected by the Romanian authorities' (Working Group Recommendation, 8).
In Romania, '16. AI expressed its concern that the placement, living conditions and treatment of patients in many psychiatric wards and hospitals violate international human rights standards. In 2004, it denounced the practice of subjecting individuals to involuntary psychiatric treatment without medical grounds and the deplorable conditions to which such persons were subjected. AI added that in 2004, 18 patients were reported to have died in a hospital in Poiana Mare, most of them as a	The United Kingdom recommended, to 'urgently consider improvements to conditions for psychiatric patients' (Working Group Recommendation, 22). Ireland recommended, to 'enact further measures to ensure adequate provision of mental health care' (Working Group Recommendation, 27).

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NGO information as stated in OHCHR summaries of stakeholder information	Recommendation to state under review as listed in WG reports
result of malnutrition and hypothermia. Despite the evidence suggesting that the deaths had occurred in suspicious circumstances in February 2005, Romania's General Prosecutor decided to close the case of deaths in Poiana Mare, as a result of not having established a link between the deaths and the personnel's treatment of the patients. AI informed that a complaint was filed requesting the re-opening of the case. CLR mentioned that a frequent problem in these types of institutions were the lack of clear procedures for the institutions' residents to file complaints or petitions to the authorities'.	
For Sri Lanka, 'AI reported that the 17th Amendment to the Constitution, passed by the Parliament in 2001, establishes an independent, ten-member Constitutional Council (CC) mandated to recommend appointments to key public commissions in order to ensure their independence. The failure to appoint members to the CC and the President's subsequent decision to directly appoint the members of Sri Lanka's National Human Rights Commission (HRC) and the Police Commission are an indication of control by the executive of bodies responsible for criminal justice'.	The Netherlands recommended, 'To establish the Constitutional Council as foreseen by 17th Amendment to the Constitution as soon as possible, and that this Council be mandated to appoint a number of commissioners to public Commissions, such as the NHRC and the Police Commission' (Working Group Recommendation 57 (b)).
For Tonga, a national NGO stated '6. Under the Constitution of Tonga, as indicated by the LLP, women do not have the right to own and inherit registered/customary/ family land, instead hereditary land rights belong to male members of the family. Where ownership of land is transferred to a widow, this right of "stewardship"	Switzerland recommended, 'To consider repealing the discriminatory practice in the inheritance laws'. (Working Group Recommendations 38(c)). The Czech Republic also recommended, 'To amend legislation discriminating against

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NGO information as stated in OHCHR summaries of stakeholder information	Recommendation to state under review as listed in WG reports
ownership is terminated if she remarries. The LLP continued to work in collaboration with other stakeholders to eliminate poverty and displacement in families headed by single mothers who do not have access to family land and housing. It called on the Government of Tonga, as a matter of urgent priority, to amend land laws that discriminate against women'.	women in the fields of inheritance, ownership to land and child support' (Working Group Recommendation 39(a)).
9. As to Tonga (in 7), 'In May 2007, the LLP assisted a Community Para-legal Taskforce on Human Rights to release a comprehensive report on this issue (Community Para-legal Taskforce on Human Rights, Documenting the Treatment of Detainees and Prisoners by Security Forces in the Kingdom of Tonga, May 2007). The report, based on more than 4 months of research, including the interview of over 80 persons arrested and detained by Security Forces, presented first hand description of events, photographs, medical and psychiatric reports, statistical analysis and interviews with representatives from the Security Forces and Judiciary to document the extent of ill treatment.' (In 11) [The LLP] 'further called on the Government of Tonga to consider the recommendations contained in the Community Para-legal Taskforce on Human Rights report, Documenting the Treatment of Detainees and Prisoners by Security Forces in the Kingdom of Tonga, in particular, as a matter of urgent priority'.	The Netherlands recommended, 'To facilitate extended access to prisons for NGOs and that it implements the recommendations contained in the report of the Community Para-legal Taskforce on Human Rights with regard to persons detained by the security forces' (Working Group Recommendation 64. 28(c)).
For Ukraine, 'AI recommended that the Government review legislation relating to racist crimes and ensure that law	The Netherlands recommended, 'To take further efficient measures to ensure that law enforcement

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NGO information as stated in OHCHR summaries of stakeholder information	Recommendation to state under review as listed in WG reports
enforcement officers, prosecutors and judges involved in enforcing the law relating to racist crimes fully understand the nature of such crimes'.	officials, prosecutors and judges involved in enforcing the law relating to hate crimes and other violent acts of racial discrimination and xenophobia fully understand the nature of such crimes and that statistics on racist incidents are kept centrally and are publicized' (Working Group Recommendation 24).
For Ukraine, '24. UHHRU indicated that the selection procedure for judges is not transparent and that it encourages abuse and dependence of judges on public officials involved in the procedure. According to UHHRU, it is not uncommon for judges to experience pressure both from the authorities and from the interested parties. Various forms of influence are applied, ranging from letters, telephone calls and personal visits to the judges and chairpersons of the courts to open criticism of the court rulings. Such non-procedural relations between different parties and the judges are not prohibited by law'.	The United Kingdom recommended, 'To undertake further work regarding the independence of the judiciary and corruption in the judiciary and across the executive' (Working Group Recommendation, 23).
For Ukraine, '29. KRHG highlighted that the practice of using confessions not made voluntarily in criminal proceedings remains widespread. In criminal procedures, there are to this day no well-developed criteria for determining whether a confession was made voluntarily. According to KHRG, the legislation does not contain sufficiently clear provisions ensuring that any statement which has been made under torture shall not be invoked as evidence under any proceedings, as requested by CAT'.	The United States of America recommended, 'To change its domestic laws to make confessions obtained under torture inadmissible as evidence in criminal court proceedings against the person who confessed' (Working Group Recommendation, 22).

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NGO information as stated in OHCHR summaries of stakeholder information	Recommendation to state under review as listed in WG reports
For Ukraine, '32. HRW reported that journalists and media outlets work free of direct government interference, but threats and physical attacks against journalists critical of government officials or other prominent figures remain a problem. HRW highlighted that media freedom activists lament that there have still been no charges brought against former senior government officials implicated in organizing Gongadze's killing'.	France recommended, 'To take all measures necessary to ensure that all acts of violence against journalists be investigated and that appropriate punishments are meted out' (Working Group Recommendation, 27).
For Zambia, 'HRW urged Zambia to ensure that provisions on equality before the law regardless of sex, and provisions prohibiting any law, culture, custom, or tradition that undermine the dignity, welfare, interests, or status of women or men (articles 38–40), are retained in the draft constitution, under discussion'.	Italy and Canada recommended, 'To take all appropriate measures to improve the situation of women's rights on the ground and retain in the draft Constitution currently under discussion both the provision on equality before the law regardless of sex and the provision prohibiting any law, culture, custom or tradition that undermine the dignity, welfare, interests or status of women' (Working Group Recommendation, 29).
For Zambia, 'Although the Zambian government has established the Victim Support Unit (VSU), a special unit of the police charged with addressing a variety of abuses, including domestic violence and property grabbing, lack of human and other resources undermines this unit's ability to address gender-based abuses. Similar observations were made by Child Rights organisations and OMCT'.	Denmark recommended, 'That all possible measures be taken to eliminate torture and other inhuman or degrading treatment or punishment, including that all mechanisms such as the PPCA and Victim Support Unit are fully implemented' (Working Group Recommendation, 6).
For Zambia, '9. OMCT recommended the Government to: ensure that the Commission is established in full conformity with the	France recommended, 'To strengthen the Human Rights Commission with a status in accordance with

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NGO information as stated in OHCHR summaries of stakeholder information	Recommendation to state under review as listed in WG reports
Principles related to the status of national institutions for the promotion and protection of human rights (Paris Principles); to reinforce the independence of the Commissioners, especially with regard to the appointment process; to ensure that the recommendations of the Commission are fully and promptly implemented and; to allow the Commission to receive funds to carry out its activities'.	the Paris Principles, particularly with respect to human resources and independence' (Working Group Recommendation, 9).
For Zambia, '27. As indicated by GR – ILGHRC sections 155–157 of the Zambian Penal Code criminalize any form of consensual same-sex conduct in private between consenting adults providing for the possibility of imprisonment from seven to fourteen years. Such provisions reinforce social stigma against gay, lesbian, bisexual and transgender individuals and expose them to the risk of deprivation of liberty, life, physical integrity and health. Similar observation was made by the ILGA in its joint submission'.	The Netherlands recommended, 'To strive to amend its Criminal Code to decriminalize same-sex activity between consenting adults in accordance with the recommendations of the Human Rights Committee' (Working Group Recommendation, 33).
For Zambia, '5. As also noted by Human Rights Watch (HRW), Zambian women do not enjoy effective legal protection of their property rights and as a result practices like property grabbing (the unlawful appropriation of marital property upon the death of a spouse by inlaws) and the unequal distribution of marital property according to customary law for women who divorce are widespread. This discrimination is sanctioned by Article 23 of Zambia's current constitution—currently undergoing review—which gives primacy to	Canada recommended, 'To take measures to improve the situation of widows and girl orphans, including by ensuring protection of inheritance through enforcement of legislative provisions' (Working Group Recommendation, 4).

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NGO information as stated in OHCHR summaries of stakeholder information	Recommendation to state under review as listed in WG reports
customary law in marriage-related matters. Although Zambia has a law that regulates distribution of inheritance where the deceased did not leave a will (the Intestate Succession Act of 1989, amended 1996), which should help counter property grabbing, this law is ill-enforced. HRW urged the Zambian government to ensure better enforcement of the Intestate Succession Act'.	

All notes have been removed from quotes.

Conclusions

Established after several years of discussions and negotiations on an international level, the UPR process in the UN Human Rights Council offers new high-profile opportunities for NGO advocacy to improve the observance of human rights obligations by governments around the world. Some of the most significant opportunities lie not in the proceedings in the Human Rights Council in Geneva, but internally in societies around the world. Despite the limitations built into the process by states themselves in establishing the Council, the formal proceedings in Geneva do provide an opportunity to secure useful commitments from states upon which NGOs can then seek implementation.

Fewer than half of UN Member States have so far been reviewed in the new UPR process, and states generally appear to have great concern as to how they will appear when they stand before their peers and the world community in Geneva.[32] There is substantial press coverage within states as their governments are preparing to come up for review – and then when they appear for review. For national NGOs, in particular, this period provides an opportunity to press for greater observance of human rights both in public advocacy, and within national consultations if held for the upcoming review.

NGOs can engage in a continuous four-year cycle of advocacy built around UPR: advocating for and participating in national consultations;

32 The International Service for Human Rights observed that states under review at the second UPR session 'were generally represented by high level delegates, usually at the ministerial level, and large delegations, which seemed to signify that they took the process seriously'. ISHR, *UPR Monitor* (April–June 2008), online at http://www.ishr.ch/content/view/314/499.

advocating for special procedure visits and providing information to the human rights experts involved; advocating for ratification of human rights treaties and submitting information to treaty monitoring bodies; advocating for the acceptance of recommendations made in UPR and then monitoring and advocating for implementation of those recommendations. Forming a broad national coalition of NGOs for advocacy around the UPR process can be particularly effective.

Submitting information and recommendations directly for use in the UPR process is worthwhile in the first instance because the original submissions themselves are published on the OHCHR UPR website page for the state involved – together with the OHCHR compilations of other NGO submissions and of information from UN special procedures and treaty monitoring bodies. The NGO information thus becomes part of a central and readily available reference for anyone around the world looking at the human rights record of that government. Following OHCHR guidelines (page limits, avoidance of abusive language, etc.) will help ensure inclusion in the summaries of NGO information, as will providing information together with other credible national and international NGOs in joint submissions.

To make the UPR process itself as useful as possible, NGOs should first seek to have states raise their concerns as recommendations to the states under review in the 'interactive dialogues' by (a) clearly identifying in their written submissions to the process proposed 'recommendations' to the state under review after a clear statement of the underlying facts and concerns; and (b) lobbying UN Member States, either directly or with the assistance of international NGOs in Geneva, to make those recommendations in the dialogues. After the recommendations are listed in the Working Group report, the state under review may be lobbied to accept them both at its Geneva Mission, and by lobbying and public advocacy at home in its national capital.

To make those recommendations truly useful, they should be formulated in precise language calling on states to take clearly identified measures. In any event, NGOs should continue advocacy to urge states to implement the commitments they made, by calling on states to take specific measures to which they agreed in the UPR outcome statements, and by proposing measures to carry out the more general recommendations they accepted in the outcome statements.

UPR is useful for advocacy on the full range of human rights issues. Even knowing that violator states will be unlikely to accept specific recommendations to correct serious abuses, and that states will not likely accept recommendations to change policies based on longstanding social and cultural norms, UPR provides a new opportunity to address such recommendations to states and focus international pressure to correct abuses and unjust practices. For states truly open to dialogue and improvement,

UPR offers an opportunity to get the attention of high-level officials and policy-makers for human rights problems and for proposals to correct those problems.

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