

A stylized world map composed of a grid of dots in various shades of gray, with several dots highlighted in red. The map is centered behind the title and subtitle.

The Universal Periodic Review

Do Civil Society Organization-Suggested Recommendations Matter?

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November 2013

- A central finding is the considerable extent to which official UPR state recommendations do in fact reflect perspectives and themes contained in recommendations of Civil Society Organizations (CSO).
- While these findings do not prove that CSO recommendations lead to related state recommendations, they do show that at least state recommendations encompass CSO recommendations to a significant extent.
- More specifically, CSO (as well as state) recommendations concerning disabilities (representing economic, social and cultural rights) and freedom of expression (civil and political rights) reflect a much higher acceptance rate for the former.
- A majority of these state recommendations, however, were framed in more general terms than those proposed by CSOs, thus allowing States under Review more discretion in terms of defining compliance.
- In general, the research suggests that CSO engagement in the UPR process is worthwhile and should be accentuated, especially in Asia. The high correlation between CSO and overall state recommendations supports the legitimacy of the UPR process.



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List of Acronyms

CP	Civil and Political Rights
CSO	Civil Society Organization
EEG	Eastern European Group
ESC	Economic, Social and Cultural Rights
GONGO	Governmental Non-Governmental Organization
GRULAC	Group of Latin America and Caribbean Countries
HRC	Human Rights Council
NGO	Non-Governmental Organization
NHRI	National Human Rights Institutions
OHCHR	Office of the High Commissioner for Human Rights
SuR	State under Review
UPR	Universal Periodic Review
WEOG	Western European and Others Group



1. Introduction

1.1 Overview

In 2008, the United Nations Human Rights Council (HRC) launched a new initiative, the Universal Periodic Review (UPR), to strengthen human rights norms and practices across the world. The UPR is a process through which UN member states' human rights records are examined according to criteria outlined by the HRC, and other states provide recommendations on how their human rights practices could be improved. While state-to-state »peer« interactions are at the heart of the UPR, the process also offers some scope for non-governmental civil society organizations (CSOs) to advocate for improved observance of human rights. CSOs may participate in the UPR by submitting their own written observations and recommendations prior to the formulation of official state recommendations. Focus on the role of the CSOs is very important since the extent to which CSOs' concerns are reflected in the official state recommendations has implications for the effectiveness and bona fides of the UPR. Without CSO input into the recommendation process (as well as overseeing state compliance with accepted recommendations), the UPR would be a more isolated, weaker and less legitimate mechanism.

Given these factors it is important to examine the level of impact that CSOs really are having on the process. This is of interest to CSOs around the world; it can give them a greater understanding of the extent to which their input makes a difference in the review and therefore is worth the time and effort to engage with the UPR. Meaningful CSO involvement is also important for participating states and the official HRC community. It contributes to a determination of whether the UPR reflects widespread input and participation or if, by contrast, it is merely a vapid diplomatic exercise which carries little actual substantive weight or import.

Since CSOs are by definition independent from governments, they bring a different perspective to the process; CSOs can publicly criticize and call for policy change on matters that national governments might be inclined to avoid. Furthermore, the peer-to-peer nature of the UPR may influence states to soften their recommendations to avoid risking strains in bilateral political, economic and security relationships with the states undergoing these

reviews (SuRs). CSOs are not bound by this concern, and so they may be more likely to seek stronger and more controversial recommendations.

In light of the importance of CSO influence in the UPR for securing meaningful human rights improvements, there is a need for empirically-based research to deepen understanding of this influence and how it may evolve as the process matures. The purpose of this paper is therefore to examine the extent to which the human rights concerns of CSOs are reflected in state UPR recommendations and accepted by the SuRs.

This paper identifies and codes CSO recommendations in the OHCHR stakeholder input summaries for each SuR. Using the online database at UPR-Info.org, these CSO recommendations are then compared to actual recommendations made from one state to another and assigned a match level (no match, general match, specific match) determining the extent to which state recommendations encompass CSO recommendations. The database also includes additional information which is presented in the Research Scope section of this paper.¹

1.2 UPR Process

While engagement in the UPR is voluntary, in practice all UN member states have agreed to participate and have their human rights records examined.² The UPR process now functions as a four and a half year cycle during which all member states undergo a review; by March of 2012, the first cycle was completed and the second cycle is currently underway.

The initial part of each state's review involves the preparation of three documents: 1) a national report produced by the SuR; 2) a report by the Office of the High Commissioner for Human Rights (OHCHR) compiling UN information on the SuR; and 3) a report by OHCHR summarizing information submitted from CSOs, civil society, and other stakeholders. After the information on the SuR is prepared, the review is conducted during a meeting of the Working Group on the UPR in Geneva, which

1. The database is accessible at <http://www.uvm.edu/cdae/?Page=biomcmahon.php&SM=biomcmahon/biosubmenu.html>.

2. Israel participated in the first round but has postponed its review in the second round due to concerns about biased input from other states, UPR Info, 2013, March 21.



is made up of the member states of the UN Human Rights Council. The SuR then engages for 3,5 hours in an interactive dialogue with the Working Group. A report containing recommendations is produced and adopted by the Working Group. The Working Group report and the SuR's responses to the recommendations are then included in a final outcome document that is adopted at the next plenary session of the Human Rights Council.³

While only national governments may officially make recommendations to SuRs, there are multiple potential areas for CSO advocacy and input. These opportunities include 1) encouraging the state to conduct national consultations to inform the national report, accept UN special procedure visits, and ratify human rights treaties; 2) submitting information on human rights situations to treaty monitoring bodies and through the UPR; and 3) advocating for states to officially accept relevant recommendations made via the UPR and then implement them, for example through of CSO statements at the end of the adoption session and the use of »official« Side Events during UPR WG sessions and HRC sessions.⁴ The written submission of information is a particularly significant avenue for CSOs to participate in the UPR because their observations and recommendations may be incorporated into the official documentation authored by OHCHR in preparation for a state's review.

The focus in this paper is particularly on the second element, that of CSOs submitting reports to the OHCHR regarding human rights conditions in states to be reviewed, including suggested recommendations for reviewing states to make. According to HRC Resolution 16/21, which clarifies the working procedures for the UPR, the review should take into consideration credible and reliable information from other relevant stakeholders. These include, »inter alia, CSOs, national human rights institutions, human rights defenders, academic institutions and research institutes, regional organizations, as well as civil society representatives.«⁵ OHCHR accepts from these actors short written submissions on human rights issues in the SuR and uses the information to draft

a »Summary of Stakeholders' Information« document. To encourage the inclusion of information in the summary document, CSOs are to present their information by first generally defining the issue at stake, providing illustrative examples, and then offering recommendations.⁶

1.3 Research Scope

While to date there is a paucity of empirically-based studies on this subject, research was conducted in 2010 on child-focused CSO engagement in the UPR. Overall, CSOs in this survey expressed the opinion that participating in the UPR was worthwhile and had unforeseen benefits, such as facilitating opportunities for networking and developing useful relationships with national and international actors. In addition, respondents identified post-review follow-up as a critical aspect of the process.⁷

The ability of CSOs to have their concerns raised through the UPR process was also examined in a study of the 16 states reviewed in 2008 during the second UPR session. Moss analyzed the extent to which a broad range of CSO interests were reflected in state recommendations made to the SuRs, and the extent to which these recommendations were accepted by the SuRs. The study identified 745 CSO concerns (factual statements, observations, and recommendations) included in the stakeholder summaries for these 16 SuRs; 70 per cent corresponded to actual recommendations made by UN Member States. While this demonstrated CSOs' ability to bring attention to their human rights issues, only 38 per cent of the recommendations corresponding to CSO concerns were accepted by the SuRs. In contrast, state recommendations that did not correspond to CSO input had an acceptance rate of 57 per cent.⁸

The results of this earlier research (with limited sample sizes) has suggested that CSOs are achieving some success in advancing human rights through the UPR, which has implications for the effectiveness and legitimacy of the mechanism; this paper is designed to add to this knowledge base.

3. OHCHR, n.d.,a.

4. Lawrence Moss (2010). Opportunities for Nongovernmental Organization Advocacy in the Universal Peer Review Process at the UN Human Rights Council. *Journal of Human Rights Practice*, 2(1): 122-150.

5. OHCHR, A Practical Guide for Civil Society - Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/UPR/Documents/PracticalGuideCivilSociety.pdf>, 11.

6. UPR Info and NGO Group for the CRC, n.d.,b.

7. Ed Renshaw (2010). Universal Periodic Review: The Status of Children's Rights. *Child Rights Information Network (CRIN)*. Retrieved from http://www.crin.org/docs/FileManager/Status_of_Childrens_Rights_in_the_UPR_2010_22ndnov.pdf

8. Moss, op. cit.



This paper presents research from an evolving database containing CSO-suggested recommendations contained in the UPR summaries of CSO submissions. A comparison is then made between these recommendations with those actually made by states, to determine the extent to which there is a correlation. It is not possible to prove causation i.e. whether states made these recommendations as a result of the CSO suggested recommendations.⁹ However, examination of the extent to which CSO concerns are reflected in state recommendations can at least demonstrate the level to which CSO interests are correlated, and thus represented, in the process. This research provides useful data of value and interest to the UPR, CSO human rights and academic communities. Such subsidiary areas of attention include levels of acceptance/other SuR responses to these recommendations, especially compared to non-CSO suggested recommendations; which states/regions are most likely to make recommendations consonant with those of the CSOs; whether there is a relationship between action levels in state recommendations and the issues raised by CSOs; which issues receive the most CSO focus, and which issues are most likely to be reflected in state recommendations.

This paper also examines the influence of CSOs in two specific issue areas, disability rights and freedom of opinion and expression. These issues were selected to provide a comparison between an issue in the economic, social and cultural (ESC) rights area (disability rights), and one in the civil and political (CP) rights area.

1.4 Methods

The analysis encompasses UPR sessions 3-13, from December 2008 through May 2012.¹⁰ It is based on the CSO-submitted content of the OHCHR's Summary of Stakeholder Information documents for each SuR. The usage of certain action verbs (ask, call on, encourage, must, propose, recommend, should, suggest, and urge)

9. This would be challenging to demonstrate from a methodological perspective. It would be possible to examine whether the language employed by states in recommendations is identical to that proposed by CSOs, which would strongly indicate causation. But states are likely to change and edit recommendation language for a host of reasons, including in some cases a desire not to appear to be simply repeating CSO recommendations.

10. Since the first two sessions were start-up in nature the data they present is not necessarily representative of the subsequent process.

determined whether a statement would be considered a recommendation. Recommendations were inputted individually and then coded by session number, SuR, and issue category.

Next, using the online database of state-made recommendations at UPR-Info.org, each CSO recommendation was compared by identifying key issues to official UPR recommendations made from UN Member States to SuRs. Each CSO recommendation was assigned a match level (no match, general match, specific match) to represent how closely it corresponded to state-made recommendations on the same issue. A broad definitional approach was taken for assigning the match level; if there was a state recommendation on the same issue as the CSO recommendation and the former could reasonably be interpreted to encompass the latter, then it was judged to be at least a general match. To earn a match level of »specific,« the corresponding state recommendation had to include most of the exact components, if not actual language, of the recommendation. For CSO recommendations that had either a general or specific match to a state recommendation, the response of the SuR to the state recommendation (accepted, general response, no response, rejected) and the action level of the state recommendation were also recorded for analysis.

The results of this study are subject to certain assumptions and limitations. One assumption is that CSO recommendations contained in original submissions were consistently and comprehensively included in the OHCHR stakeholder summary documents. Based on limited random checking, it appears that this is the case, although we found that a modest number of CSO recommendations were omitted. The writing style of the summaries also varied considerably, with some documents containing mostly observations and passive language and other summaries containing many action statements and a diverse set of action verbs. These inconsistencies in OHCHR treatment of stakeholder summaries may have the effect of somewhat minimizing the extent of CSO input.

The existence and impact of Government Non-governmental Organizations (GONGOs) must also be considered. GONGOs are allegedly non-partisan organizations which in reality are instituted and/or supported by governments in order to influence the civil society sector in a more pro-government direction, and to give the appear-



ance of a sector which supports the government. The participation of such organizations in the UPR recommendations has resulted in some cases in an inflation of »soft« recommendations and positive state responses. The scope of this problem is reduced, however, when one looks at the totality of the 27,000 recommendations made to date in the UPR process. GONGOs do not exist everywhere. And in some places where they do, they may not be numerous or influential. They may not be well-enough organized to seek to influence the UPR process; to do so they have to convince other countries to take up their so-called recommendations. Anecdotal evidence suggests that GONGOs may have been active in the China, Venezuela and Cuba UPR reviews, but there is no credible database or other type of analysis that specifically identifies NGOs by GONGO status. And definitions of what constitutes and GONGO may differ.

It is also important to note that this study focuses on CSO recommendations contained in the OHCHR report summary process. It does not capture the impact of CSO recommendations that may have been made directly to embassies in-country or diplomatic missions in Geneva as states were formulating their recommendations and which did not find their way into the OHCHR compilations. Other research limitations include the subjectivity involved in assigning match levels to recommendations, and the need to disaggregate compound recommendations contained in the summary documents into individual recommendations for analysis. Given these challenges it is unlikely that the findings in this paper would be replicated exactly. Owing to the large sample size, however, the limited scale of these challenges reinforces the overall validity of these findings.

2. Results

2.1 Overview Data

Sample Number of CSO-based Recommendations. 6,967 recommendations were identified as proposed by CSOs. Due to resource limitations 2,448 recommendations are analyzed here regarding the extent to which they were reflected in official state recommendations.¹¹ To help ensure an accurate distribution of recommendations, these CSO recommendations were selected systematically on a periodic (i.e. every second recommendation) sequential basis. This amount (35 per cent of CSO recommendations) reflects a 99 per cent probability of a 3.5 per cent or less margin of error in the data.¹²

Coding of Recommendations. The 2448 CSO recommendations selected for analysis were assigned codes 0, 1, or 2 corresponding to their match level. The 0 coding refers to CSO recommendations that are not reflected in state recommendations; the 1 coding refers to CSO recommendations that have some measure of similarity to state recommendations, while 2 codings are identical or quasi-identical to CSO recommendations. Examples of coding:

- Code 1 (General). CSO Recommendation: Amnesty International recommended that Bahrain allow demonstrations for election purposes.

State Recommendation: Japan recommended that the government of Bahrain implement the necessary measures to guarantee freedoms of expression, association and peaceful assembly.

- Code 2 (Specific). CSO Recommendation: HRW recommended that Kazakhstan establish a cap on defamation awards.

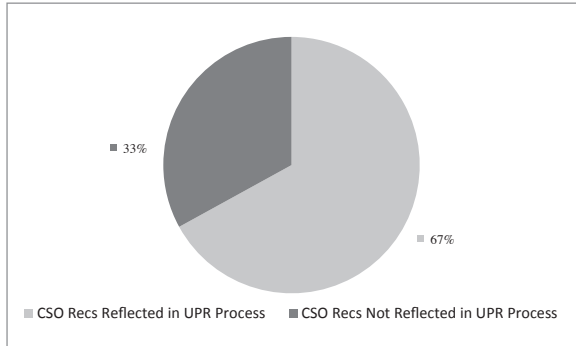
State Recommendation: The Netherlands recommended that Kazakhstan revise its legislation on criminal libel, to limit defamation awards.

11. More than 2448 CSO-suggested recommendations were actually made as some states presented identical or similar recommendations.

12. <http://www.surveysystem.com/sscalc.htm>, The margin of error for a 35 per cent sample is 2.2 per cent but this figure has been adjusted to reflect a modest bias in sample selection of disability and freedom of opinion and expression recommendations.

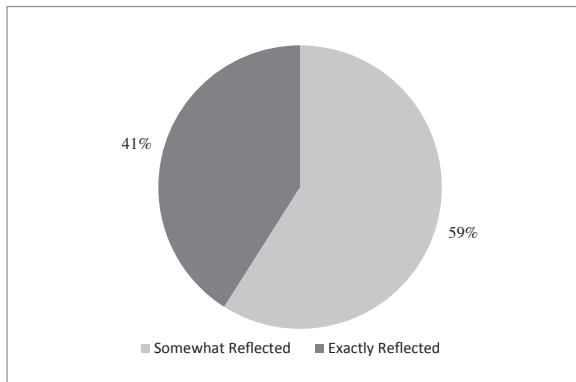


Figure 1: Incidence of CSO Recommendations Reflected in State Recommendations



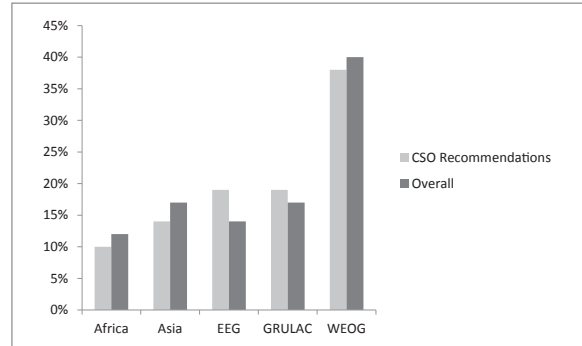
Incidence of CSO Recommendations, Reflected in State Recommendations. 1631 of the 2448 identified CSO recommendations are reflected in state recommendations. Thus two-thirds (67 per cent) of CSO recommendations are represented in either a general or specific fashion in official UPR recommendations. This finding is of central importance as it demonstrates the extent to which CSO perspectives are reflected in the UPR process.

Figure 2: Level of Specificity of State CSO-Suggested Recommendations



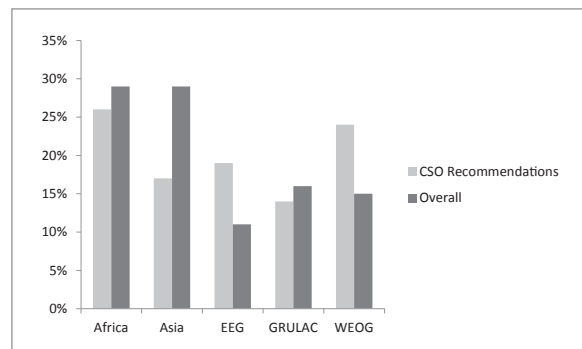
Level of Specificity of State CSO-Suggested Recommendations. Distribution of code 1 and code 2 recommendations: Of the state recommendations reflecting CSO suggested recommendations, 59 per cent are coded as code 1 and 41 per cent as code 2. Thus, about three-fifths reflect the CSO recommendations in a general fashion while the rest are close or identical to the CSO recommendations. When non-acceptances are factored in, they constitute 33 per cent of the total, while code 1 recommendations are 40 per cent and code 2 recommendations 27 per cent.

Figure 3: Regional Distribution of States Making Recommendations



Regional Distribution of States Making Recommendations. There is a general similarity between CSO-suggested recommendations and the overall number of recommendations in terms of the regions from which these recommendations emanate. Mirroring other patterns of UPR utilization, Africa and Asia have a similar approach with fewer CSO recommendations than overall, while for EEG and GRULAC the reverse is true as they reflect somewhat more CSO recommendations than overall. WEOG makes the large plurality of recommendations in both cases.

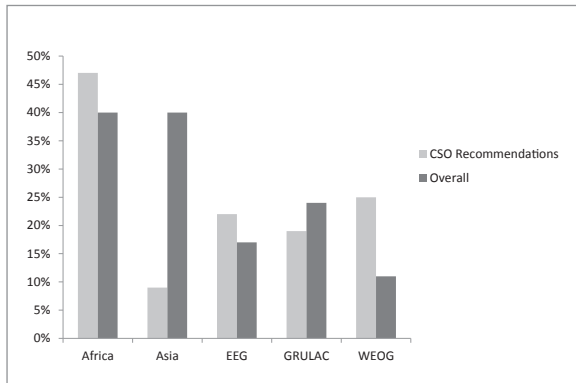
Figure 4: Regions Receiving Recommendations



Regions Receiving Recommendations. In comparison with overall recommendation patterns, the lowest percentage of CSO-suggested recommendations were directed at Asia. Africa and GRULAC also had fewer CSO than overall recommendations, although that difference was less profound than when compared with Asia. Conversely, EEG and WEOG had larger percentages of CSO-suggested recommendations than overall.

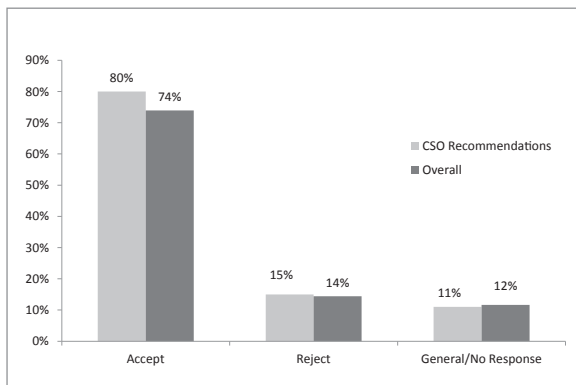


Figure 5: Intra-Regional Recommendations



Intra-Regional Recommendations. Africa, EEG and especially WEOG’s recommendations within their own regions reflected CSO recommendations to a greater extent when compared to all recommendations made within their own regions. Asia-Asia recommendations, by contrast, were significantly less reflective of CSO recommendations than those made in other regions. This suggests a lower level of NGO activity, at least as regards engagement with the UPR, in the Asia region as a whole.

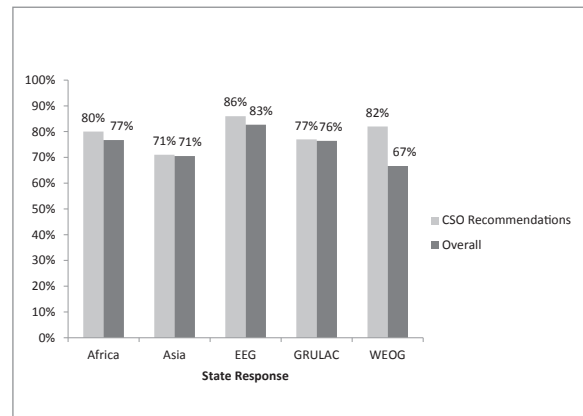
Figure 6: SuR Acceptance Rates



SuR Acceptance Rates. This figure represents rates of acceptance by States of CSO-suggested recommendations compared to overall recommendations. These data point out that four-fifths of the State recommendations reflecting CSO perspectives are accepted by the State under Review. This is modestly higher than the overall

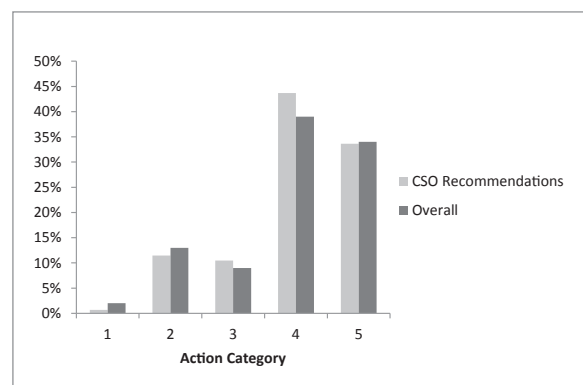
SuR recommendation acceptance rate of 74 per cent.¹³ Rates of rejection and general/no response reactions by SuRs (the latter mainly serve as de facto rejections of recommendations as states are not committing themselves to fulfilling the recommendations).

Figure 7: Acceptance Rates by Region



Acceptance Rates by Region. Four of the five regions had either equal or slightly higher acceptance rates of CSO-suggested recommendations as compared to the overall recommendations. WEOG was the outlier in this case, with 15 per cent fewer overall recommendations accepted than CSO-suggested recommendations.

Figure 8: Action Levels of Recommendations

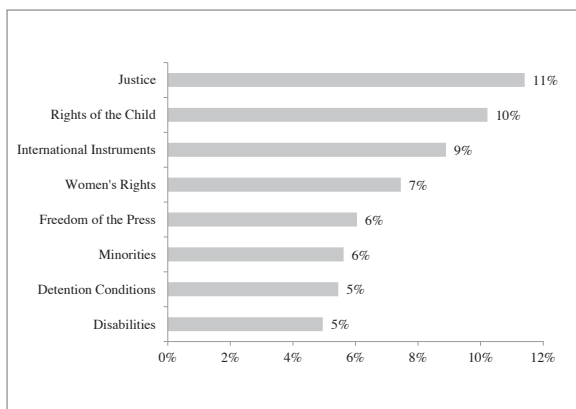


13. The CSO acceptance figure totals more than 100 per cent because in some cases more than one state made this recommendation.

Action Levels of Recommendations. Comprising a one to five scale¹⁴, the action level pertains to the overall action actually requested by the recommendation and the first verb in the sentence; the scale ascends from minimal action (1) to specific action required (5).

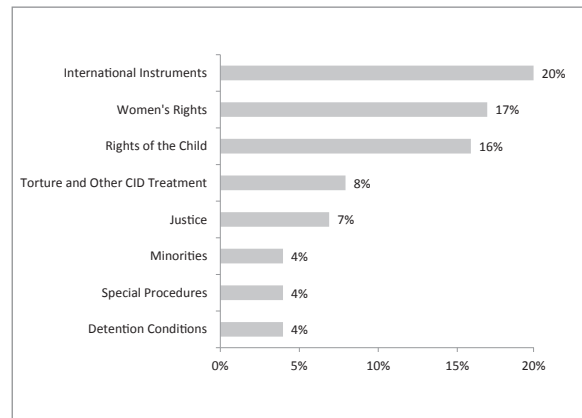
A plurality of recommendations (40 per cent) are category 4, while a third are category 5. They are trailed by categories 2 and 3, with a very small number of category 1 recommendations. Although category 4 recommendations are modestly more represented in CSO recommendations these figures are highly consonant with the distribution of action categories of the overall recommendations.

Figure 9: Top Eight Issue Categories Reflected in CSO Recommendations



14. The action category scale provides an assessment of the type of recommendation made based on the verbs utilized in the recommendation language. A rating of 1 is for recommendations directed at non-SuR states, or calling upon the SuR to request technical assistance, or share information; a rating of 2 is for recommendations to continue or maintain existing efforts; a rating of 3 is for recommendations to consider change; a rating of 4 is for recommendations of general action (i.e. address, promote, strengthen, etc.); and a rating of 5 denotes recommendations calling for specific, tangible and verifiable actions. More information on the action category scale is available at Edward McMahon (2012). *The Universal Periodic Review: A Work in Progress*. Friedrich-Ebert-Stiftung, <http://library.fes.de/pdf-files/bueros/genf/09297.pdf> and www.upr-info.org/IMG/pdf/Database_Action_Category.pdf.

Figure 10: Top Eight Issue Categories Reflected in Recommendations for S3-13



Top Eight Issue Categories in CSO and Overall Recommendations. Six of the eight top issues are reflected in both figures are on both lists, although there is some variation in terms of the overall percentages accorded them. For example, CSO-suggested recommendations reflect a broader, flatter distribution of range of issues. Overall recommendations are more focused with, for example, the top issue, international instruments almost doubling the top CSO recommendation issue of justice. The focus on international instruments likely reflects recommending state orientation towards a state-to-state type recommendation which is typically less of a focal interest of CSOs. In addition, CSO recommendations reflected in state recommendations closely reflect the issue distribution of all CSO recommendations.

2.2 Case Study

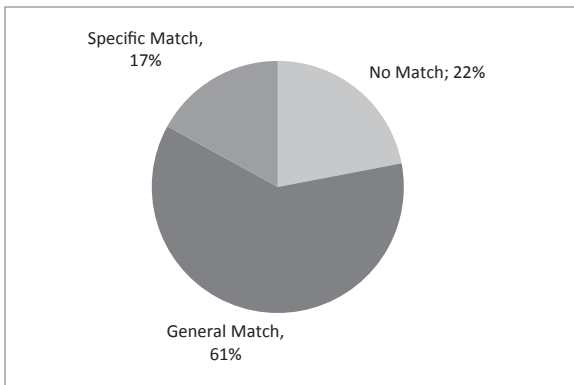
Focus is now directed on how CSOs approach the UPR mechanism regarding two specific issue areas, disability rights and freedom of opinion and expression, through UPR sessions three to thirteen. These issues were selected to provide a comparison between one representing the economic, social and cultural (ESC) rights area (disability rights) and one representing the civil-political (CP) rights area. This case study was included in this research given ongoing debates about ESC and CP rights e.g.; would CSOs approach ESC and CP rights differently? Would states respond differently depending on the ESC or CP-oriented nature of the recommendation? Would acceptance rates differ?



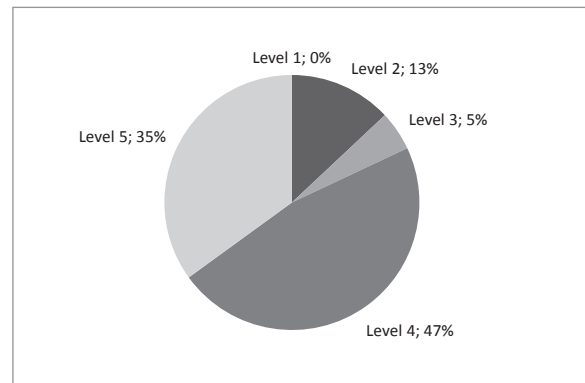
As noted in previous research undertaking such analysis is complicated and challenging. Many of the issues addressed in the process do not neatly translate into ESC or CP rights; they relate very much to the individual country context. In addition, some recommendations are procedural and non-issue specific in nature (i.e. Special Procedures visit invitations, adherence to human rights treaties).¹⁵ So the case study here reflects only 2 issues which are fairly clear cut in their adherence to ESC or CP rights.

Match Levels. Overall, the results demonstrated somewhat higher matching levels of CSO recommendations for these two issues as compared to all recommendations. 78 per cent of CSO disability recommendations and 82 per cent of CSO freedom of opinion and expression recommendations corresponded at least some degree to state recommendations. A significantly smaller portion of CSO recommendations, however, (17 per cent for disability rights and 25 per cent for freedom of opinion and expression) specifically matched corresponding state recommendations. These figures are lower than the 41 per cent number for all CSO-suggested recommendations made by states.

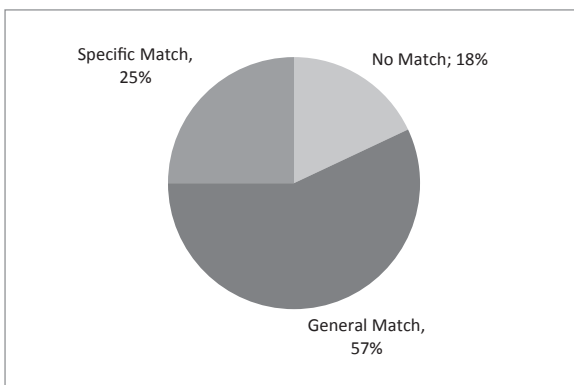
Figures 11: Match Level between CSO and Overall Match Level between CSO and Overall Recommendations (Disability Rights)



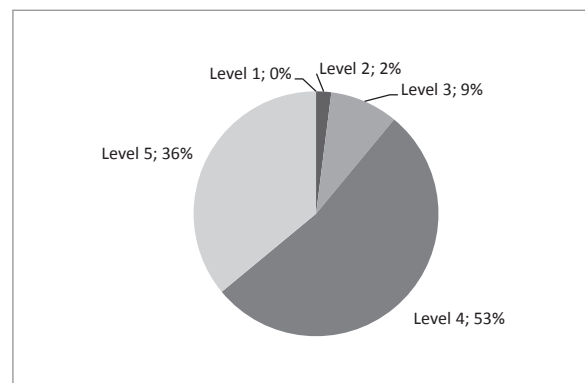
Figures 13: Action Level of CSO Recommendations (Disabilities)



Figures 12: Match Level between CSO and Overall Recommendations (Freedom of Expression)



Figures 14: Action Level of CSO Recommendations (Freedom of Expression)



Action Levels. For both disability rights and freedom of opinion and expression recommendations, about half were at action level four and over one-third were at

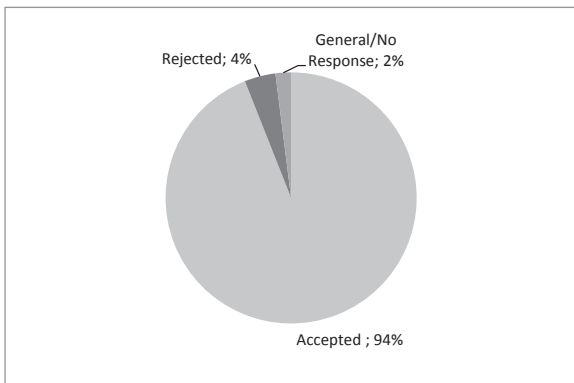
15. McMahon, op. cit., p. 21.



action level five, the most specific action level. Recommendations on freedom of opinion and expression were slightly more specific than disability rights ones (53 per cent versus 47 per cent for level four, respectively; and 36 per cent versus 35 per cent for level five, respectively). It is notable that the results for CSO recommendations on both disability rights and freedom of opinion and expression generally resemble the action category breakdown of the overall recommendations for sessions 3-13 (2 per cent for category 1; 14 per cent for category 2; 10 per cent for category 3; 39 per cent for category 4; and 35 per cent for category 5).

Responses to Recommendations. Finally, trends are noted in SuR responses to state recommendations that corresponded to CSO recommendations. Figure 4 shows that there were significant, large differences between the two issues than observed in other results. The recommendation acceptance rate was 94 per cent for disability rights and 66 per cent for freedom of opinion and expression; conversely the rejection rate was 2 per cent and 23 per cent, respectively. For freedom of opinion and expression recommendations, states also made modestly greater use of alternatives to explicit acceptance or rejection, with »no response« at 3 per cent and »general response« at 8 per cent; this was only 1 per cent and 3 per cent, respectively, for disability rights.

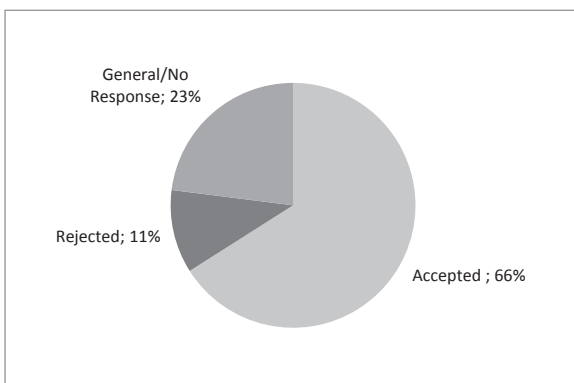
Figures 15: Responses to Recommendations by SuR (Disabilities) Responses to Recommendations by SuR (Disabilities)



3. Discussion of Findings

A reasonable a priori hypothesis would suggest that CSO recommendations utilized by states would be more targeted and specific than overall state recommendations. This is based on the recognition that CSOs have specific policy-oriented foci and have less need to factor in the broader range of interests and diplomatic concerns than do states. The research presented here, however, presents a more nuanced view of the CSO-state relationship regarding UPR recommendations; to cite the title of a recent Hollywood movie, »It’s Complicated«.

Figures 16: Responses to Recommendations by SuR (Freedom of Expression)



A central finding of this research is the considerable extent to which official UPR state recommendations do in fact reflect perspectives and themes contained in CSO recommendations.¹⁶ While there is no assertion of causation, it is credible to infer that CSO perspectives and input do have an impact on state recommendations. At a minimum, it appears that states share interests reflected by the CSOs. In addition, in many respects CSO recommendations mirror several overall patterns, for example in the percentage of acceptance rates, the regional distribution of recommending states, and the distribution of action categories. These factors provide greater legitimacy to the UPR process, as it appears not to be functioning in isolation from broader societal perspectives and concerns; the process benefits from CSO input.

16. These findings correspond to those generated by Moss in his 2010 study although that study, with a smaller sample size, suggested a lower acceptance rate of CSO-suggested recommendations.



SuRs, however, had modestly higher acceptance rates of CSO-suggested recommendations than of overall recommendations. What could be the reasons for this apparent contradiction of the thesis that by virtue of their more targeted and specific nature CSO-suggested recommendations would be more likely to be rejected?

The answer may lie in the 59-41 per cent breakdown in favor of more general (code 1) types of recommendations actually made by states. This suggests a proclivity on the part of states to generate less targeted and specific recommendations, while addressing many of the same themes as those raised by CSOs. The effect of this is ambiguous - while the more general state recommendations tend to encompass a broader range of potential situations than do the typically more specific CSO recommendations, assessment of state compliance with the former types of recommendations is also more subjective i.e. less tangible and verifiable. Thus with regard to accepted recommendations, states have more leeway in defining whether or not they have fulfilled their commitment. It is also of interest that there are few state recommendations utilizing identical language to that of CSOs. A contributing factor for this can be a desire on the part of states not to appear to be merely repeating CSO recommendations.

WEOG and EEG received comparatively more CSO recommendations. A credible explanation for this is that EEG and WEOG have more domestic CSOs in these regions with resources to focus on the UPR exercise. There also appears to be a consonance between the code 1 and code 2 categories of CSO-suggested recommendations and the 4 and 5 action categories. 40 per cent of all overall recommendations were in category 4; the figure of code 1 CSO-suggested recommendations was 39 per cent. The corresponding numbers for category 5 and code 2 recommendations were 34 and 27 per cent.

It is very possible that the code 1 recommendations tended to be more specific coming from CSOs but then were made more general by the recommending states – thus having the effect of moving them from what would have been action category 5 to action category 4. States may have a range of reasons for doing this, ranging from a general diplomatic propensity for less binding language to a desire not to be too »strict« with other states in anticipation of similar reciprocal treatment. This

perspective leads directly to a core suggestion that CSOs and states alike anchor their recommendations in specific, concrete and verifiable language.


The distribution of CSO-suggested recommendations encompass a broader array of issues, and is thus »flatter« in percentage terms than that reflected in the overall breakdown of recommendations by issue(s). Additional research would be required to identify why this may be the case, but a logical explanation is that there are some issues of greater specific concern to states than to CSOs. Also, the top issue in the overall category of state recommendations is that of adherence to international instruments – a recommendation which may be of more interest to states, and one that they feel comfortable making than other, more potentially sensitive types of action-oriented recommendations. Conversely, it may be a topic of relatively less interest to CSOs.

The case study results show that CSO concerns related to disability rights and freedom of opinion and expression are overwhelmingly reflected, to at least some degree, in the official state recommendations. However, only a quarter of CSO recommendations highly match corresponding state recommendations; this suggests that work is needed for CSOs to have specific, targeted impact on the substance of official recommendations in these issue areas.

Compared to the two-thirds acceptance rate of all official state recommendations from the first UPR cycle, this case study's CSO recommendation acceptance rates of 94 per cent for disability rights and 66 per cent for freedom of opinion and expression indicate that for these issue areas CSO concerns are being successfully promoted via the UPR. However, while SuRs tended to accept CSO recommendations on both issues, the rejection rate was much greater for freedom of opinion and expression than disability rights (23 per cent vs. 2 per cent, respectively). This indicates that states are less receptive to recommendations on issues that are more political and challenging to state power; a finding which echoes previous related research on this topic.¹⁷

While the UPR is primarily an international and intergovernmental mechanism, the civil society/CSO perspective has the potential to enrich the process and strengthen

17. McMahon, op. cit, 21-22.



impacts. Thus, ascertaining the degree of CSO influence is an important aspect of evaluating the overall success and integrity of this mechanism, as progress in conducting the second UPR cycle continues. By generating evidence that CSOs are substantially shaping the official recommendations and that states tend to accept recommendations reflecting their input, continued research has the potential to bolster the legitimacy of the UPR and signal its promise for effectively advancing human rights.

And there are fruitful areas for future research. It may reveal patterns and temporal changes in the relationship between CSOs and state recommendations. It may also demonstrate whether there is a relationship between CSO-proposed recommendations which are proposed and accepted by states, and their success in implementation. It may be that CSO-proposed recommendations have higher rates of implementation because of the greater level of buy-in on the part CSOs.

Overall it appears that CSOs clearly have the potential, and perhaps even the actual, ability to have their voices heard in the UPR process. A conclusion resulting from this research is that CSOs need to be strengthened in Africa, and especially Asia, to play a more pro-active and substantive role in setting the agenda for and influencing recommendations to those regions. It should be recognized, however, that there are a host of challenges that complicate further integration of CSO perspectives, ranging from the »high« level of policy (e.g. more authoritarian states are less likely to be receptive to CSO recommendations) to more operational considerations (e.g. over-worked diplomats may not have the time to read and consider CSO submissions). CSOs should therefore be patient and continue to creatively heighten their efforts to engage with states in the UPR; similarly states, which may increasingly recognize that it is in their self-interest to further legitimize the UPR, should be prepared to give higher priority to welcoming CSO recommendations.



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Imprint

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This publication is printed on paper from sustainable forestry.



ISBN 978-3-86498-699-4