

The Complementary Roles of States and Civil Society in the UPR Process

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By Professor Hilary Charlesworth, Editor, Human Rights and the Universal Periodic Review: Rituals and Ritualism

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We suggest that one problematic feature of the international human rights system is what we call *ritualism*. We use this term to mean the formal acceptance of human rights norms, for example by becoming a party to a human rights treaty, but an indifference, to or even reluctance about, improving protection of human rights in practice.

There are many different forms of human rights ritualism: one example is broad reservations to human rights treaties that effectively defeat the object of the treaty. Another is superficial state reports to the human rights treaty bodies, avoiding any areas of weakness.

Our book investigated whether the UPR, with its ambition of universal scrutiny of States' human rights performances, could be a counterweight to human rights ritualism. Could it encourage States to adhere to the human rights standards that they had accepted and develop a real commitment to them?

The rich chapters suggest a mixed answer. Certainly forms of ritualism persist in the UPR in the sense that some States have treated it in a perfunctory way, or as a way of undermining the expert scrutiny of the human rights treaty bodies. Extremely broad recommendations are another example of ritualism.

But the UPR has also had some success in influencing States to increase compliance with human rights

standards. Now, near the end of the second cycle, we can see reforms at the national level to support human rights prompted by the UPR. And, as the chapter on the UPR and Pacific States in the book points out, UPR recommendations can become a de facto national action plan in countries that have not ratified many human rights treaties

The role of civil society is absolutely critical in combatting ritualism in the UPR process: civil society can support, inform, prod, and remember. At its best, civil society provides a system of networked accountability.

There is of course a balance to be struck between civil society becoming too close to States, so that we have *co-option* rather than collaboration. Civil society needs to cultivate independence and maintain a critical distance while also supporting positive steps States take.

How can the relationship between civil society and States be improved in the context of the UPR?

First, despite the requirement to do so, some States have been reluctant to consult meaningfully with civil society in the preparation of their reports, for example some members of WEOG organizing consultations after the report was submitted, or States only inviting sympathetic groups to participate. These are perfect examples of human rights ritualism.

Second, the greater resources available to civil society in the global north means that it has been able to engage much more actively with the UPR than civil society in the global south.

Of course, the remarkable work of groups such as UPR Info provides support for such groups, but the UPR process should provide a more secure space for the voices of local, grassroots NGOs. This requires outreach and proper resourcing. It also requires attention in the process of granting consultative status with ECOSOC.

Third, the Secretary-General's annual report on Cooperation with the UN human rights system has documented many instances of States' intimidation or reprisals against civil society groups that have criticized them during the UPR. There is also an increasing tendency for States to adopt legislation restricting the funding of civil society groups from abroad.

Such practices allow human rights ritualism to flourish and they should be urgently and specifically scrutinized and condemned by the Human Rights Council. A Focal Point for reprisals would be a valuable reform.

Allow me to conclude by thanking again the organisers of the panel, and observing that this event itself is a good example of productive collaborations between States and civil society to strengthen the UPR.

*This is an edited extract of a speech delivered by Hilary Charlesworth at the Australian Permanent Mission to the UN on 7 September at ISHR. Marking the launch of the new book *Human Rights and the Universal Periodic Review: Rituals and Ritualism*, edited by Professor Hilary Charlesworth and Dr Emma Larking, and a comprehensive guide by UPR Info on the role of "Recommending States".*