



Advancing the **right** to **health** through the **UNIVERSAL** **PERIODIC** **REVIEW**

A review of health
under the first and
second cycles
of the Universal
Periodic Review

Advancing the right to health through the universal periodic review

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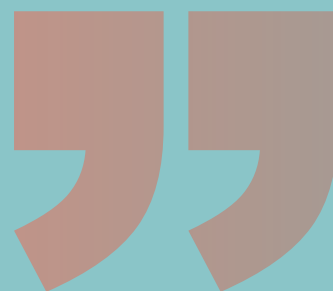
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Based on a detailed review of the first and second cycles of the UPR, this report reflects on what could be done differently to improve the impact of the UPR in advancing the right to health, and where stakeholders such as the World Health Organization can positively contribute



The Universal Periodic Review (UPR) is a comprehensive, State-to-State peer review mechanism of the UN Human Rights Council which was introduced in 2006 to scrutinize the human rights record of every UN Member State (1).¹ Designed to redress the perceived country bias and selectivity of the UN Commission on Human Rights (2), its predecessor, the recommendations that have emerged from the UPR have been criticized for being overly focused on civil and political rights to the detriment of economic, social and cultural rights (3). This perception may have contributed to the relative under-use of this process in global health governance. However, following the adoption of the 2030 Sustainable Development Agenda, the UPR has started to attract increasing attention. NGOs, think tanks, UN agencies and 'interested' Member States consider that it creates opportunities for a wide, multi-sectoral dialogue at both national and global level, and that, under the 2030 Agenda, it can strengthen accountability, including for economic, social and cultural rights (4, 5).

These shifts suggest that the UPR has an unfulfilled potential: to strengthen national processes of monitoring and accountability, increase international scrutiny of a range of issues, and focus attention on realization of the right to health.

In 2015, WHO began a two-year project with the Human Rights Centre Clinic at the University of Essex to study how health has been addressed by the UPR. The project reviewed references to health in UPR recommendations to identify trends and patterns – how frequently health was mentioned, which health issues were mentioned most frequently, whether the issues mentioned were the most pressing, and what can be inferred from the ways in which States received and made recommendations. The aim was to determine whether the UPR offers opportunities to which international organizations such as WHO should give more attention. Could the UPR advance global health and human rights

accountability? If so, how might WHO and other actors make fullest use of it?

The report reviews the extent to which health was addressed during the first and second cycles of the UPR. It asks what could be done to increase the UPR's influence on the right to health, and what role UN Specialized Agencies such as WHO might play. It is written primarily for health and human rights advocates, activists and policy makers.

The report exposes some surprising trends that challenge current perceptions that the UPR has neglected economic, social and cultural rights, and more specifically health issues.

Indeed, even a relatively narrow reading of 'health', that excludes some of its underlying determinants, showed that nearly a quarter of all recommendations (in the first cycle) were health-related – a trend that continued in the second cycle.

The health-related recommendations showed widespread concern for gender-based violence² and harmful practices. These comprised over one third (33%), while issues relating to maternal, child and adolescent health composed nearly a quarter (21%). On the other hand, mental health and HIV were not frequently raised, suggesting that health issues have not been scrutinized equally.

The same pattern was mirrored across all regions throughout the first cycle. Three topics of health, were the subject of two-thirds of all recommendations associated with health. Some region-specific patterns also emerged. Nutrition figured highly among recommendations to South East Asian countries, and non-communicable diseases in the Western Pacific.

Similarly, certain issues were consistently under-reported in recommendations across almost all other regions. Notwithstanding the regional trends above, under-reported issues included nutrition, water and sanitation,

¹ Figures in round brackets signal references. These are listed at the end of the report.

² This heading also groups recommendations that referred to 'violence against women', 'sexual violence' and 'intimate partner violence'.

Health-related recommendations in the first and second cycles of the Universal Periodic review

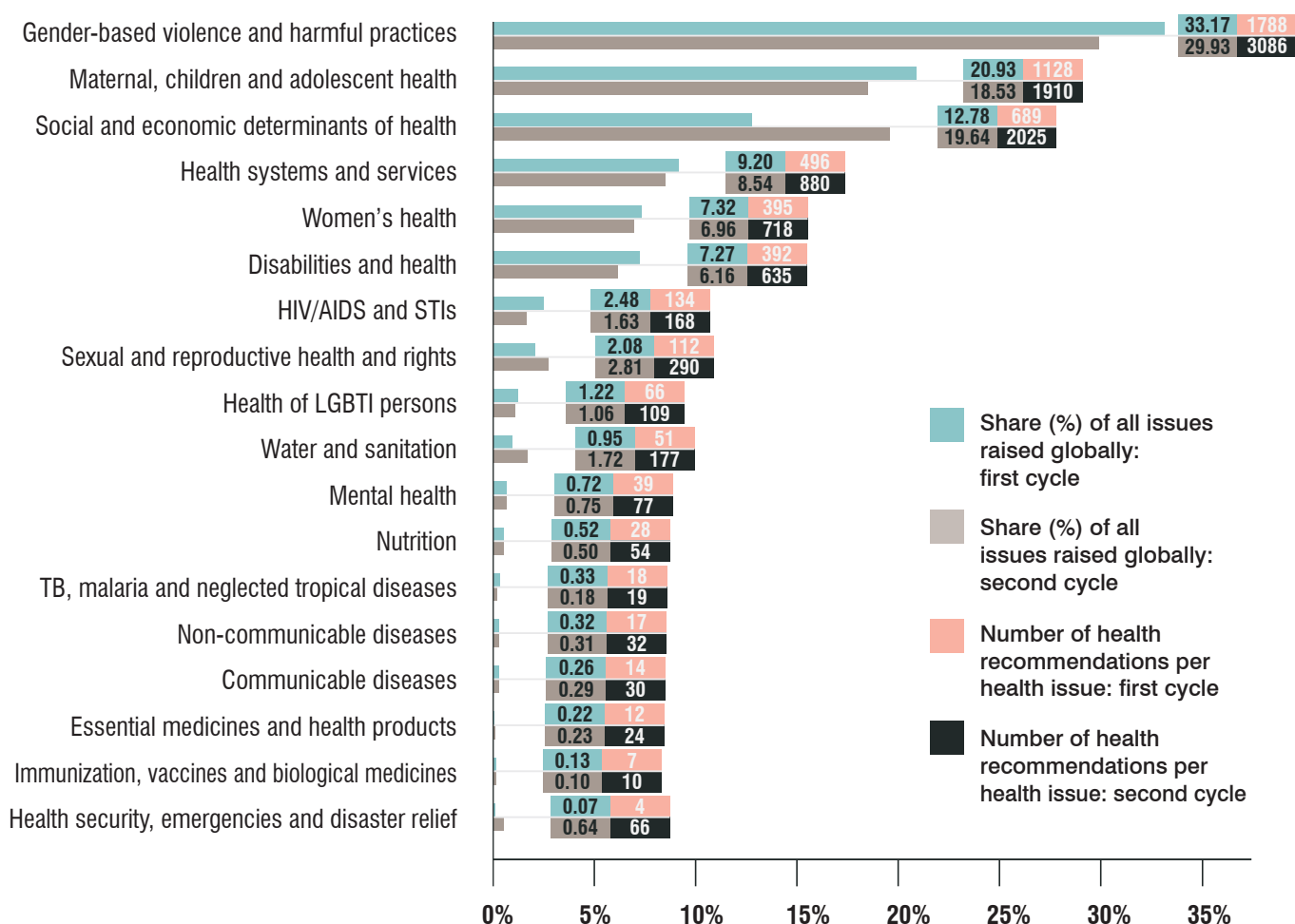


Figure 1. A comparison of health-related recommendations addressing each health category during the first and second UPR cycles

non-communicable and other communicable disease, access to essential medicines, and mental health.

The project assessed the extent to which the UPR raised relevant health issues by comparing UPR health recommendations with established national and international health priorities. These findings from the first cycle showed a strong correlation overall between UPR recommendations and WHO-supported technical assistance strategies,³ UN Development frameworks, and the international development agenda, including regional Strategies.⁴ In the Africa region (AFRO), for example, over 20% of UPR

recommendations associated with health referred to maternal and child health, and nearly 10% to strengthening health systems, matching the regional commitment to reduce maternal and newborn mortality and morbidity and improve health services.

The project found that among a sub-sample of eight countries, 59% of the UPR recommendations made to those countries in the first cycle had been fully or partially implemented within two years. At the same time, many recommendations could not be implemented in practice because they requested 'action' in terms that were general or normative rather than operational.⁵ There

³ Also known as Country Cooperation Strategies.

⁴ Many of the issues addressed have been prioritized globally, including in the Sustainable Development Goals and their predecessors, the Millennium Development Goals.



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Human Rights Council 19th Session Proceeds, UPR Reports Reviewed

may be various reasons for this that have been explored in more depth elsewhere: some State and stakeholder summaries lacked information, some reviewing States did not prioritize specificity, and on some contentious issues a deliberate effort was made to create space for dialogue inside the country (6).

While this paper can report that a relatively high number of UPR recommendations reference health-related issues, and that UPR has the potential to increase reporting of and technical support for health, the research also raised some important questions that should be considered as the UPR continues in its third cycle. Some of these questions concern the reporting cycle itself. The spread of health issues raised, and the dominance of certain issues, suggest that more comprehensive grassroots participation would produce a more balanced spread of recommendations. Other questions concern how recommendations are

formulated by States.

An enduring challenge, identified here and in other studies, is how to unpack and implement intersecting and indivisible rights in a way that makes them easy to implement and monitor, without creating ineffective and siloed responses.

During the UPR's third cycle, it will be a practical challenge to introduce new and emerging rights issues while continuing to manage and monitor the implementation of the recommendations from previous cycles. The fact that the number of recommendations has steeply increased with each cycle makes this challenge increasingly acute.⁶

This report could not address all the questions it raises. How they are answered is nevertheless likely to determine how much health is addressed, and improved, through the UPR.

⁵ This analysis corresponds broadly to the findings of the Universal Rights Group, which measured the 'usefulness' and measurability of recommendations. Subas Gujadhur and Marc Limon, *Towards the Third Cycle of the UPR: Stick or Twist? Lessons learned from the first ten years of the Universal Periodic Review* (2016, Universal Rights Group, Geneva). It should be noted that different studies make use of varying methodologies for enumerating and categorizing recommendations. Therefore, figures derived from this research will not be identical to those found in other studies.

⁶ 21,355 recommendations were issued during the first cycle and 36,331 during the second (2).

PART ONE

The Universal Periodic Review: Engaging on health

This report presents the findings of a two-year research project of WHO and the Human Rights Centre Clinic of the University of Essex, which reviewed recommendations from the first and second cycles of the Universal Periodic Review (UPR) to assess whether and to what extent these addressed health. The review established:

- The incidence of health-related UPR recommendations made to States.
- The health issues that were most frequently addressed or neglected, and the types of actions that were most commonly requested of States.
- How far States have implemented UPR health recommendations that they accepted.
- The degree to which UPR health

recommendations tend to align with national and international health priorities.

The project aimed to identify how more intense stakeholder engagement could focus attention on the most pressing health issues, and what role WHO and other international organizations might play in supporting Member States to achieve this goal.

The UPR is a State-led, peer review mechanism of the UN Human Rights Council. It reviews the performance of every country in fulfilling a wide variety of rights, one of which is the right to enjoy the highest attainable standard of health and wellbeing.

The UPR was introduced in 2006, under UN General Assembly resolution 60/251 (7). It was designed to carry out a review with the goals described in the quotation below.:



The fulfilment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and

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