

Beyond promises



**The impact of the UPR
on the ground**

The Follow-up programme:

Beyond promises

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Executive summary

The present study provides insight into the concrete and immediate results of the promises made in the first cycle of the Universal Periodic Review (UPR). The data presented shows that 48 percent of UPR recommendations triggered action by mid-term, meaning that the recommendations were either fully or partially implemented only 2.5 years after the initial review. The regional group that was most successful at mid-term is the Eastern European group, while some difficulties were perceived in Asia. The initial response of the state under review to the recommendations, accepted or noted, influenced the implementation of the recommendations in favour of accepted recommendations, with 55 percent of accepted recommendations triggering action by mid-term. However, 19 percent of noted recommendations also triggered action by mid-term, indicating that noted recommendations should not be disregarded in the implementation phase. Issues such as women's rights, international instruments, and children's rights had the overall highest number of recommendations that triggered action, but the issues with the highest percentage of implementation within the issue categories were HIV-Aids, human trafficking, and people with disabilities. Alternatively, the highest percentages of non-implementation within categories were of recommendations pertaining to the freedom of movement, right to land, and the death penalty.

The Mid-term Implementation Assessments (MIAs) also illustrated the ways in which recommendations were implemented. National and international legal measures, national action plans, awareness-raising efforts, and the creation of new institutions to work on the different human rights issues were all part of the effort to implement the recommendations received.

While engagement of UPR stakeholders has increased over the course of the first cycle, it is clear that this engagement is still lacking, especially in the follow-up to the recommendations. During discussions on the UPR process, UPR stakeholders working in different regions of the world indicated that in addition to a general increase in follow-up activities, actors should equip themselves with a solid strategy for the follow-up phase in order to ensure that UPR recommendations are implemented effectively. Furthermore, increased collaboration amongst the different UPR stakeholders is invaluable for coordinated, comprehensive, and sustainable actions that aim to improve human rights at the national level.

While the UPR has proven to be an efficient mechanism to promote and protect human rights, this study underlines challenges faced by all actors in implementing the

recommendations received in Geneva and shares solutions for addressing those challenges. Achievements in implementing UPR recommendations are presented in chapters 2 and 4, while good practices with regard to engagement with the UPR are highlighted in chapter 5.

UPR success stories

Among the thousands of steps taken to implement UPR recommendations, below are just a few examples.



Take measures to tackle the exploitation of children, including domestic work, hazardous labour, especially in the mining sector, commercial sex and trafficking, starting with the ratification of the ILO Minimum Age Convention No. 138 and the ILO Convention No. 182 on Worst Form of Child Labour (recommended by Slovenia)

Sierra Leone received the above recommendation at its first UPR in May 2011. In the following month, the Government of Sierra Leone ratified the two ILO conventions and the Child Labour Unit was created at the Ministry of Labour and Social Security to ensure further action regarding the Conventions.



Reconsider its stance on the United Nations Declaration on the Rights of Indigenous Peoples (recommended by Denmark)

During its first UPR in February 2009, Canada did not accept the recommendation asking it to re-consider its stance on the United Nations Declaration on the Rights of Indigenous Peoples because it had “concerns with respect to the wording...”. However, in November 2010, Canada endorsed the Declaration.



Reduce the number of crimes carrying the death penalty (recommended by Australia and Canada)

China received several recommendations on the death penalty in February 2009. While China did not accept these recommendations, in late February 2011, the Chinese government announced the abolition of the death penalty for 13 economic crimes, thus reducing the original list of 68 crimes punishable by death to 55.



Strengthen measures to protect and provide assistance to victims of trafficking in persons, with special emphasis on children victims (recommended by the Philippines)

At its first UPR in 2009, Mexico received several recommendations on the issue of human trafficking. During the implementation phase, human trafficking activity was traced to the state of Txcala. In response, the State Council against Human Trafficking of Tlaxcala was established with the participation of civil society organisations. Mexico also undertook the “Blue Heart Campaign” of the United Nations Office on Drugs and Crimes (UNODC) at the national level. The Blue Heart Campaign calls on different sectors of society to: inform themselves and others about human trafficking; reject any products or services that profit from human trafficking; report suspicious activities to the proper authorities; and raise awareness with the help of the blue heart symbol.



Commit to speedily implement an effective asylum system consistent with EU standards (recommended by the United Kingdom)

Greece received more than 20 recommendations pertaining to asylum seekers and refugees during its review in May 2011. By mid-term, in an effort to ensure protection of asylum-seekers’ and refugees’ rights, Greece established a new Asylum Service responsible for granting asylum or subsidiary protection. The Central Service is located in Athens and 13 Regional Asylum Offices are also envisioned in the plans. Several regional offices were already operating by mid-term (2014), with more expected to open in the same year. The Asylum Service cooperates with local, regional and international organisations. Greece also established new pre-departure detention centres in different regions of the country to improve the conditions of detainees awaiting travel documents to return to their countries of origin. In order to ensure that detainees are aware of their rights, information from the United Nations High Commissioner for Refugees (UNHCR) is provided at most of the pre-departure detention centres. Furthermore, UNHCR and NGOs have access to the centres and the ability to contact the detainees.

Best practices

Each stakeholder has a role to play in the UPR mechanism, but they should work together towards their common goal of human rights progress. Below are some key examples of best practices for the main UPR stakeholders.

States under Review

- ✓ Work towards the implementation of all UPR commitments: voluntary pledges, accepted and noted recommendations.
- ✓ Collaborate with national and international partners to implement UPR recommendations.

- ✓ Write a mid-term report to update national and international actors on progress

Recommending states

- ✓ Consult with civil society organisations to collect information before, during, and after the UPRs of the states under review.
- ✓ Make SMART (specific, measurable, achievable, relevant, and time-bound) recommendations to facilitate implementation and reiterate recommendations from the previous cycle that have not been implemented.
- ✓ Follow up on recommendations during the implementation period by not only collecting information about implementation, but also offering technical or financial assistance.

Civil Society Organisations

- ✓ Work in coalitions with other human rights defenders to increase impact and efficiency through the sharing of resources and knowledge.
- ✓ Monitor implementation and write a mid-term report. When possible, work with the government to ensure that implementation of recommendations is effective and sustainable.
- ✓ Raise awareness about the government's commitments at the national level and involve recommending states in implementation activities.

National Human Rights Institutions

- ✓ Bring the government together with civil society organisations before, during, and after the review to encourage a collaborative approach to the UPR process.
- ✓ Provide information about UPR implementation at the national and international levels through mid-term reports and awareness-raising activities.

United Nations entities

- ✓ Incorporate the UPR commitments into thematic, regional, and country activities.
- ✓ Work with national actors (the state, civil society, and NHRI) and international actors (other UN offices, international organisations, and recommending states) to increase the impact of implementation.

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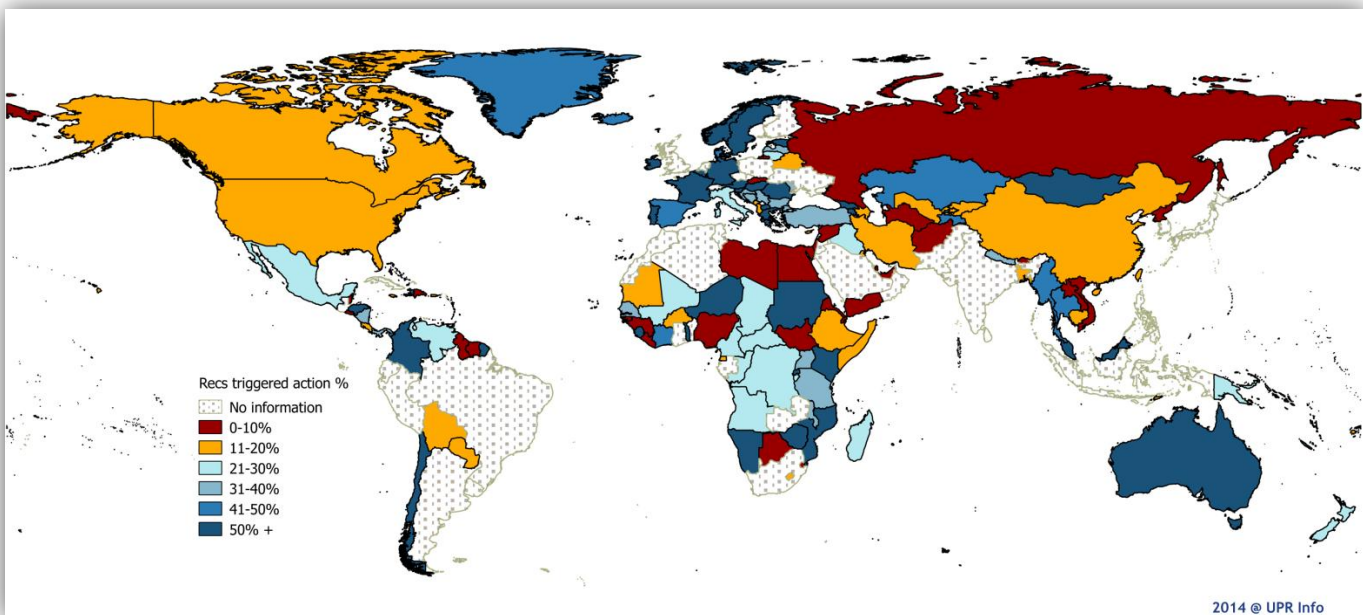
1. Introduction

As the first cycle of the Universal Periodic Review (UPR) came to an end in 2012, several aspects of the UPR were deemed successful. Firstly, all 193 UN member states had participated in a review of their human rights records, voluntarily subjecting their national activities to international scrutiny. Secondly, over 21,000 recommendations were issued and 74 percent of those recommendations were accepted by the states under review. Hopes were running high for the youngest child of the UN family. However, while the participation in the mechanism and acceptance of recommendations are integral to the effectiveness of the mechanism, the main purpose of the UPR is to improve human rights in the member states through the implementation of the recommendations.

States have 4.5 years in between reviews to take action on the recommendations that they receive. Unfortunately, it is not always clear as to the efforts that the states are or are not making because an official follow-up mechanism does not exist at the UN. States are strongly encouraged to submit mid-term reports, in accordance to Resolution 16/21, but this is not a mandatory requirement. Only at the following review, is the state held accountable for the implementation, or lack thereof, of the UPR recommendations. Too often, states have rushed towards implementation only as they began to prepare the national reports for the subsequent reviews, resulting in the “checking off of boxes”, rather than addressing root causes of complex problems. Furthermore, in a rushed attempt to save face before the international community, governments take action without the consultation and participation of civil society and other national actors – an unsustainable approach to human rights.

In response to these problems, UPR Info created the Follow-up programme in 2011 with the intention of encouraging all UPR stakeholders to more actively participate in the follow-up to the UPR recommendations. Not only was the Follow-up programme meant to serve as a reminder of the UPR commitments made, but also as a platform for evaluation and discussion of real human rights progress. The outputs of the programme were the Mid-term Implementation Assessments (MIAs), which provided information from all UPR stakeholders on the implementation of recommendations, 2.5 years after the initial review, in 165 countries.

With the information derived from the MIAs, we now know that action was triggered by mid-term for 48 percent of the recommendations for which we received comments (over 11,500 recommendations). This means that 48 percent of recommendations were either partially or fully implemented 2.5 years after the review. Real progress was illustrated for a wide variety of vulnerable groups: children, minorities, women, people with disabilities, and many more. The potential of the UPR is yet to be fully exploited,



World Map of UPR implementation (165 countries)

but stakeholders are continuously learning from their experiences and perfecting their approaches. The following chapters of this study present the quantitative and qualitative illustrations of the first cycle mid-term implementation and provide the lessons learned from states, civil society organisations, national human rights institutions, and UN agencies. The UPR is a very young mechanism and all of us are still in a learning phase. We hope that this study will help all stakeholders to learn from one another, thus benefiting from a world of creative human rights defenders who work tirelessly to ensure that international human rights standards remain exceptionally high.

2. Quantitative analysis of mid-term implementation

Over the four-year period of *UPR Info*'s Follow-up programme, information was systematically collected about the implementation of UPR recommendations by mid-term, that is, in between two reviews. For the 165 countries included in the programme (UPR sessions 2-12), relevant UPR stakeholders for each country were asked to comment on a total of 20,452 recommendations. *UPR Info* received more than 800 civil society submissions, 27 submissions from NHRIs, 37 UN agency inputs and 30 mid-term reports from states. Over the course of the programme period, the number of state mid-term reports was sporadic, but did increase toward the end. A total of 11,527 recommendations, or 56 percent of the potential recommendations, were commented upon by the various stakeholders. Comments were not received for all possible recommendations due to a lack of expertise on the topics of the recommendations, a lack of knowledge regarding actions taken to implement the recommendations, or to a lack of human resources.

The comments received from all of the stakeholders were compiled into Mid-term Implementation Assessments (MIAs) for the 165 countries¹. *UPR Info* developed the Implementation of the Recommendation Index (IRI) to categorise the level of implementation for the UPR recommendations that each State under Review (SuR) received². The three levels of implementation included: (1) not implemented, (2) partially implemented or (3) fully implemented. Recommendations regarding which action had not been taken by mid-term, were marked as "not implemented"; when some action had been taken to implement the recommendation, an index of "partially implemented" was assigned; and, finally, a recommendation was determined to be "fully implemented" when action was taken to thoroughly fulfil the demands of the recommendation.

While the information presented in the quantitative section of this report is unique and important in shedding light on the impact of the UPR mechanism, the reader should be wary of the limited nature of such data. Firstly, one should take into account that the structure of the participation can vary from one state to another, which impacts the

¹ MIAs can be consulted on the Follow-up programme's webpage: <http://www.upr-info.org/followup/>

² For more information on the Implementation of the Recommendation Index, please see the Methodology section of this publication.

implementation level. For the assessment on Kenya³, for example, all four types of actors⁴ provided information. In the case of Ireland⁵, a broad range of actors, except UN agencies, took part in the assessment. For the United States⁶, only one sort of stakeholders, CSOs (24 NGOs and coalitions of NGOs), commented on implementation of UPR recommendations. States tend to report extensively on the activities that they undertook in the aftermath of the UPR, while NGOs are usually more critical and report on the needs of their government to do more. Thus, the over or under-representation of the different participants can augment or diminish the final rate of implementation.

Secondly, the UPR is a dynamic process and, as can be seen from the “lessons learned” section of this publication, the way in which the UPR stakeholders engage in this process is constantly changing. The data presented provides insight into the mid-term implementation of the first UPR cycle, which may not look the same as that of the second cycle. Given increased interest of all stakeholders to use the UPR mechanism and the improved engagement with the mechanism, the mid-term implementation for second cycle UPR recommendations may trigger much more action on the ground.

Finally, although data has not been collected to indicate at which points in the implementation period the SuRs are most active, anecdotal evidence suggests that some SuRs tend to rush towards implementation in the second half of the implementation period, in anticipation of their upcoming reviews. Thus, the overall rate of implementation may actually be higher than the mid-term implementation data suggests.

Bearing the aforementioned in mind, both the volume of the collected data (11,527 recommendations assessed) and the consistency of the results with our previous study in 2012⁷ give us good reason to believe that this study provides an accurate depiction of the impact of the UPR on the ground.

³ See MIA of Kenya at: <http://www.upr-info.org/followup/index/country/kenya>

⁴ The government, civil society organisations, UN agency and the National Human Rights Institution.

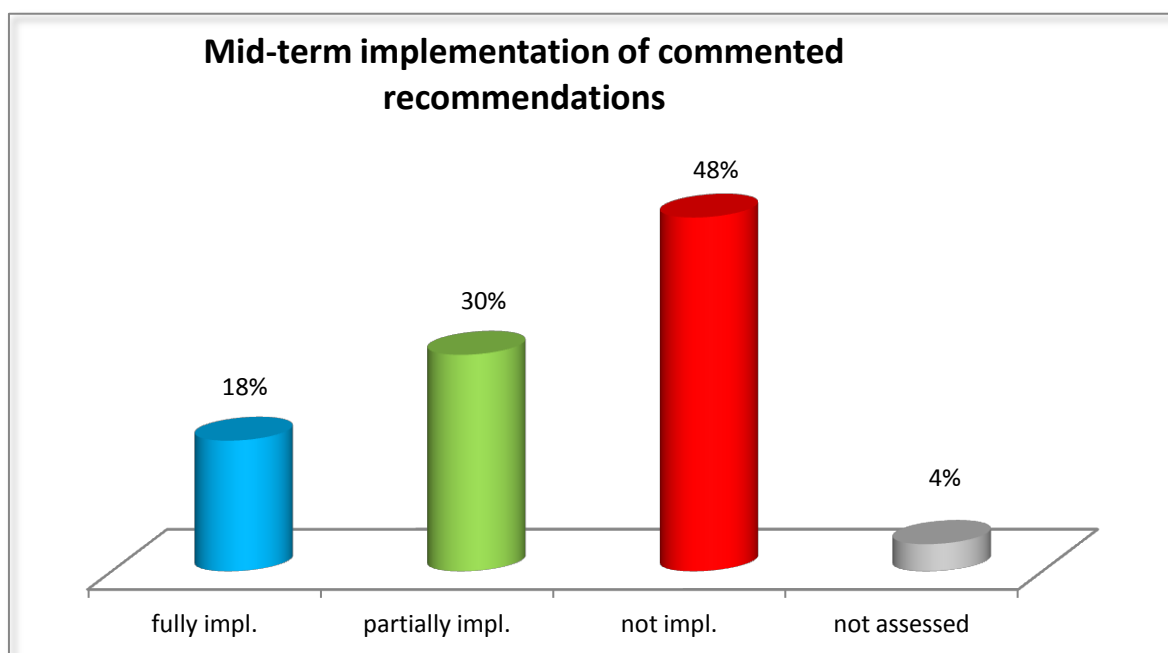
⁵ See MIA of Ireland at: <http://www.upr-info.org/followup/index/country/ireland>

⁶ See MIA of USA: http://www.upr-info.org/followup/index/country/united_States

⁷ “On the Road to Implementation” *UPR Info* (2012) see <http://s.upr-info.org/OnTheRoadtoImpl>

2.1. Mid-term implementation status

The quantitative part of the study relies on a substantial amount of data. Of the 11,527 commented recommendations, 2,068 (18 percent) recommendations were fully implemented at mid-term, 3,428 (30 percent) were partially implemented and 5,602 (48 percent) were not implemented at mid-term. For 429 (4 percent) of the recommendations commented, the information provided by the stakeholders was not sufficient for determining the Implementation of the Recommendation Index (IRI).⁸



Although 48 percent of the recommendations are not implemented by mid-term, the glass may be seen as half-full rather than half-empty. The data also indicates that 48 percent of recommendations were either fully or partially implemented, while only half of the implementation period had already passed. In other words, **almost 48 percent of recommendations “triggered” an action at mid-term**, suggesting that the commitments made at the UPR are not simply lip-service to human rights, but that they do result in action on the ground.

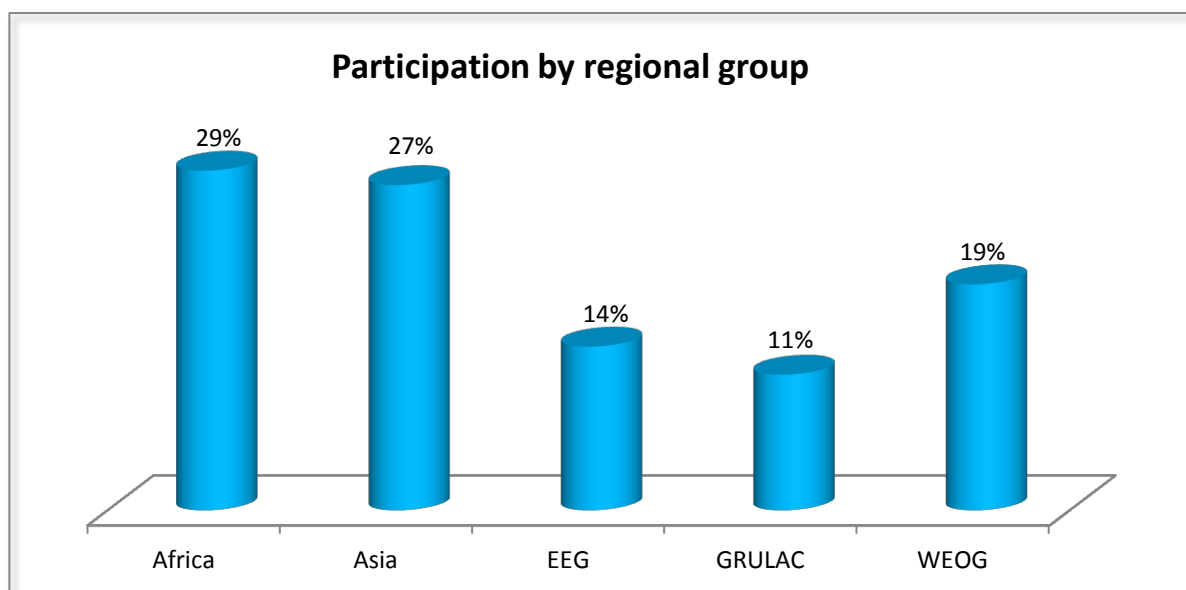
It is worthwhile to mention that a substantial part of the information upon which the analysis relies was provided by CSOs, who tend to be more critical of the government's

⁸ For more information about the Implementation of the Recommendation Index, please see the methodology section of this publication.

human rights record. Thus, the final percentage of implementation may be even more promising for the future of the UPR.

2.2. Implementation by regional group

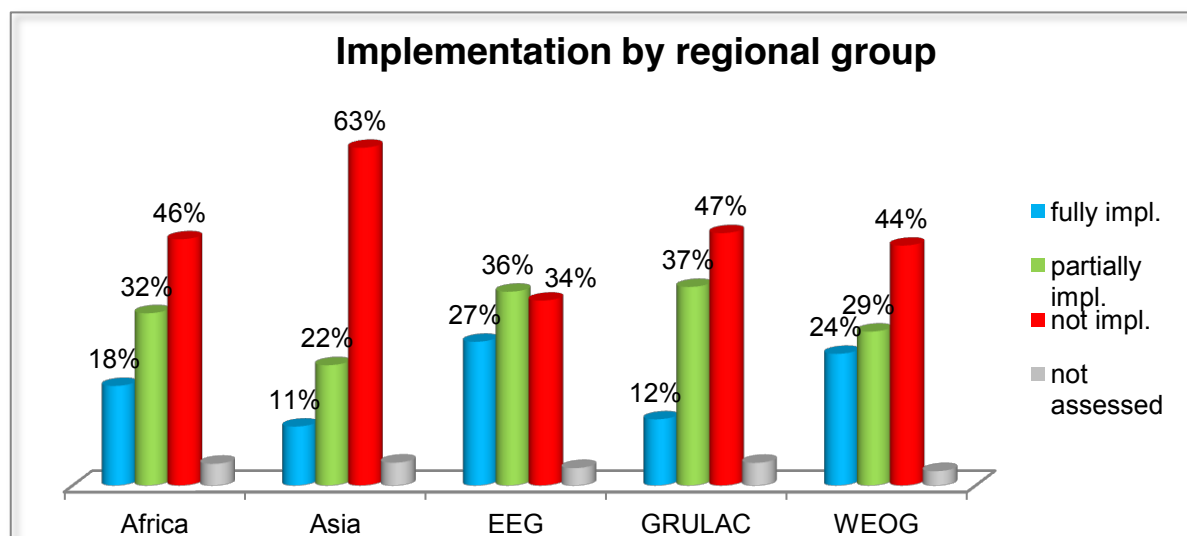
Although *UPR Info* offered the possibility to participate on a universal and inclusive basis, the actual participation (determined by the number of recommendations commented) in different regional groups varied⁹. The regions with the most participation were Asia and Africa, representing 29 percent and 27 percent of the commented



recommendations, respectively. The least participation was on behalf of Eastern European Group (EEG) and the Latin American and Caribbean Group (GRULAC) with 14 percent and 11 percent, respectively. Participation rates can be explained by the number of country members in each group, as well as the engagement (or lack thereof) of the states' governments or civil society with the UPR at mid-term.

Within each regional group, the percentages of recommendations that triggered action at mid-term are promising. In Africa, action was taken on 50 percent of the commented recommendations, in Asia on 33 percent, in EEG on 63 percent, in GRULAC on 49 percent, and in WEOG on 53 percent.

⁹ Regional groups are based on the UN classification :
<http://www.un.org/depts/DGACM/RegionalGroups.shtml>



Of the five regions, the EEG has the most promising rates of implementation at mid-term with 63 percent of recommendations triggering an action and only 34 percent of recommendations not implemented.

On the other hand, Asia had a low rate of implementation, with 11 percent of recommendations fully implemented, 22 percent partially implemented and the highest percentage of not implemented recommendations: 63 percent. Although the rates of implementation in Asia are discouraging, one should also bear in mind that Asia, as a region, covers countries that are very different in their nature, from Saudi Arabia to South Korea. If we examine the region in greater detail, we find substantial differences. In Mongolia¹⁰, for example, 55 percent of the recommendations triggered action by mid-term. In Saudi Arabia¹¹, on the other hand, an assessment was impossible because none of the stakeholders took part in the Follow-up programme. Therefore, a broad explanation for why the UPR is less successful in Asia compared to other regions is not possible and further studies should be carried out by sub-region.

Finally, Africa fared well with 50 percent of recommendations triggering an action and 46 percent not implemented at mid-term. We find a very active civil society in this regional group and, often, very committed governments. While Africa is not the region with the highest implementation rate, it seems that, from a qualitative approach, exciting changes are happening thanks to the UPR.

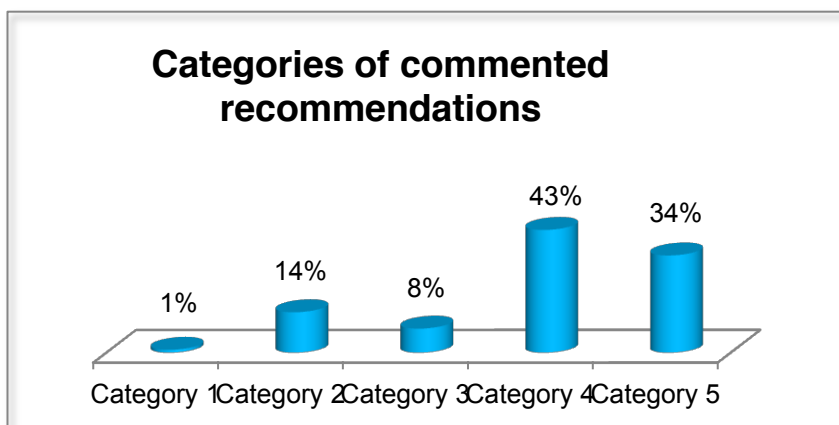
¹⁰ See MIA of Mongolia: <http://www.upr-info.org/followup/index/country/mongolia>

¹¹ See MIA of Saudi Arabia: http://www.upr-info.org/followup/index/country/saudi_arabia

2.3. Implementation by action category

Although many UPR recommendations are issued and accepted, recommendations are not made equal when it comes to their potential impact on the human rights situation. In order to better understand the quality of recommendations that are made at the UPR, University of Vermont Professor Edward McMahon, with the support of *UPR Info*, created a classification system on a scale of 1 (minimal action) to 5 (specific action). The category of the recommendation is decided according to the verb of the recommendation¹². Recommendations of category 1-3 are usually easier to implement because they do not require costly actions from the state under review. Category 4 recommendations can also be relatively easy to implement because the recommendations are so vague that even minimal action can be perceived as effort toward implementation. At the same time, category 4 recommendations are difficult to assess because they do not indicate how the recommendations should be implemented or the tangible outcome of the implementation. Specific recommendations of category 5 are sometimes more difficult to implement because they require precise action, but they are easier to assess for that same reason. In the context of the UPR, category 5 recommendations have the most potential to impact the human rights situation because these recommendations leave the least amount of room for window-dressing of the human rights efforts taken by the state.

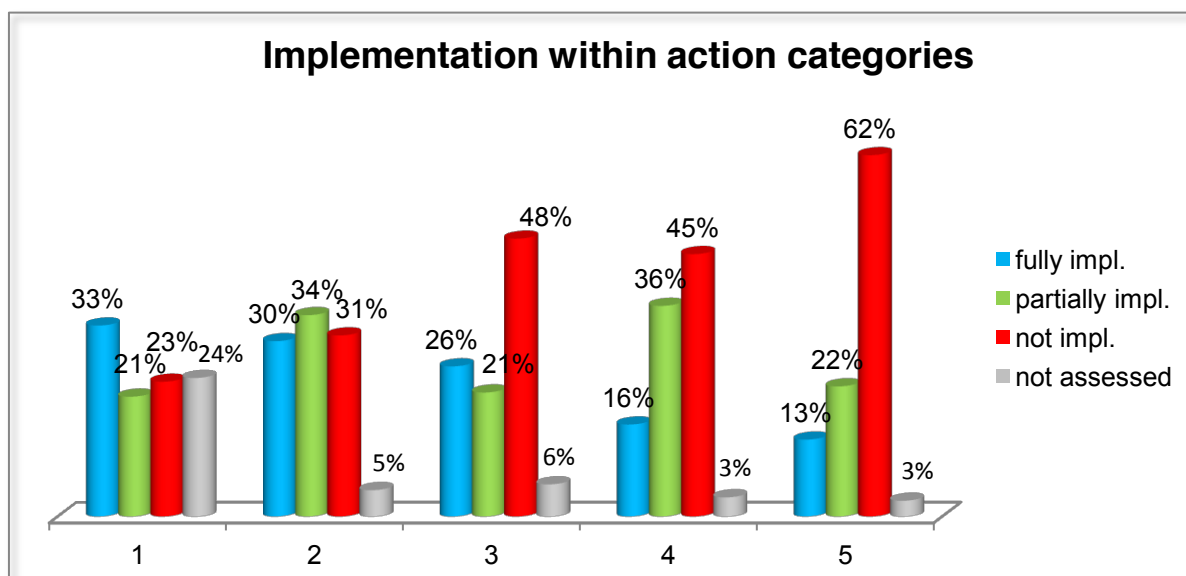
Of the 11,527 recommendations that were commented in the Follow-up programme, the most common categories were 2, 4, and 5, as is illustrated in the graph above. This reflects the general trend of the type of recom-



mendations that Recommending states make in the UPR. The high rate of general recommendations is explained by the fact that states do face diplomatic or other

¹² More information regarding the action categories can be found in the methodology section of this publication.

constraints for making precise recommendations. At the same time, the rate of category 5 recommendations (at 34 percent) is encouraging because these recommendations are easy to assess and can help to identify the concrete actions taken to improve human rights. It is, therefore, useful to examine the categories of the recommendations in greater detail.



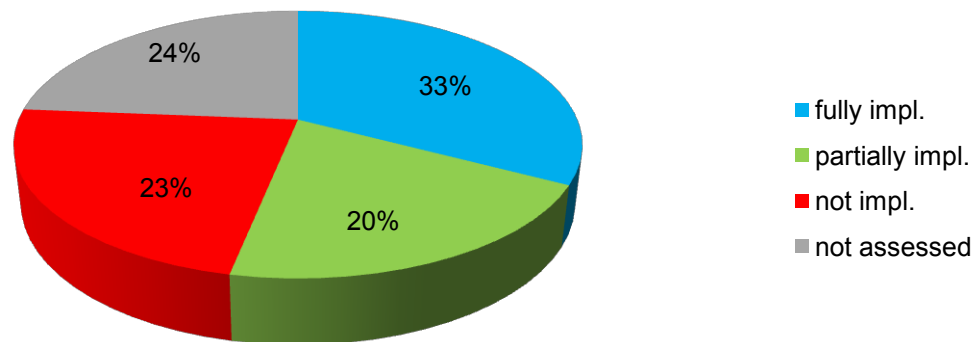
As expected, the graph above indicates that full implementation declines from category 1 to category 5. Non-implementation increases, from category 1 to 5, with the exception of category 3. Each category is discussed further in the following sections.

2.3.1. Category 1

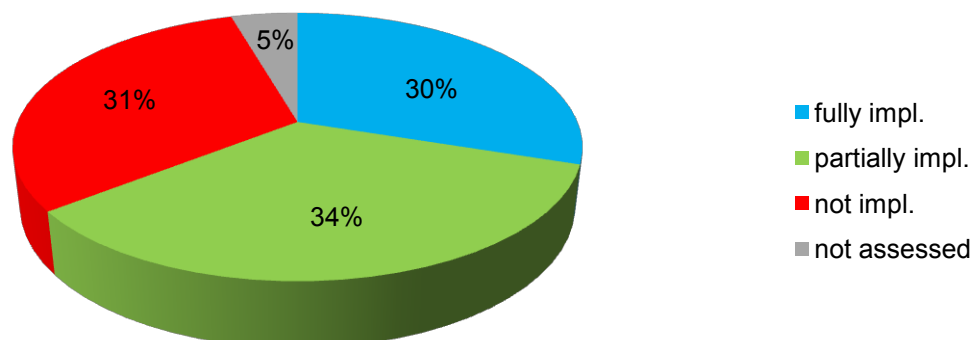


Seek the assistance of the international community [...]

Category 1 recommendations call upon the SuR to share best practices or seek technical or financial assistance. Although this does require some action and political will on the part of the SuR, it is a category that calls for minimal action compared to the other categories. Since asking for international assistance is not usually controversial, it is not surprising to see that category 1 recommendations have a high rate of full implementation at mid-term, 33 percent.

Implementation status for action category 1**2.3.2. Category 2***Continue advancing in the fight against torture [...]*

Category 2 recommendations call upon the state under review to continue action. Often, these recommendations are easy to implement as they do not require the state to change its policies, but to continue them. However, continuation of certain actions or policies can prove to be a challenge when faced with economic crisis, political

Implementation status for action category 2

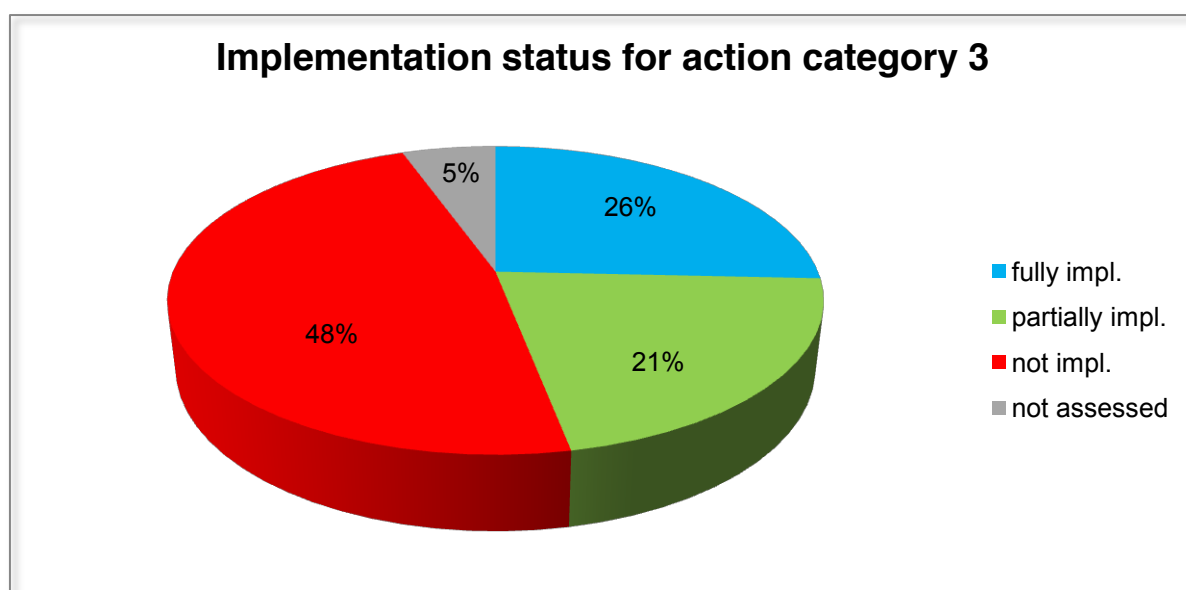
insecurity or conflict. Within this category, 64 percent of commented recommendations triggered action and 31 percent of recommendations were not implemented at mid-term.

2.3.3. Category 3



Consider alternative non-custodial measures for migrants in an irregular situation [...]

Recommendations that call upon the SuR to “consider” an action fall under category 3. Recommending states will often use such language to soften the recommendation when the issue at hand is controversial and is not supported by the SuR. This explains why 48% of category 3 recommendations are not implemented by mid-term.

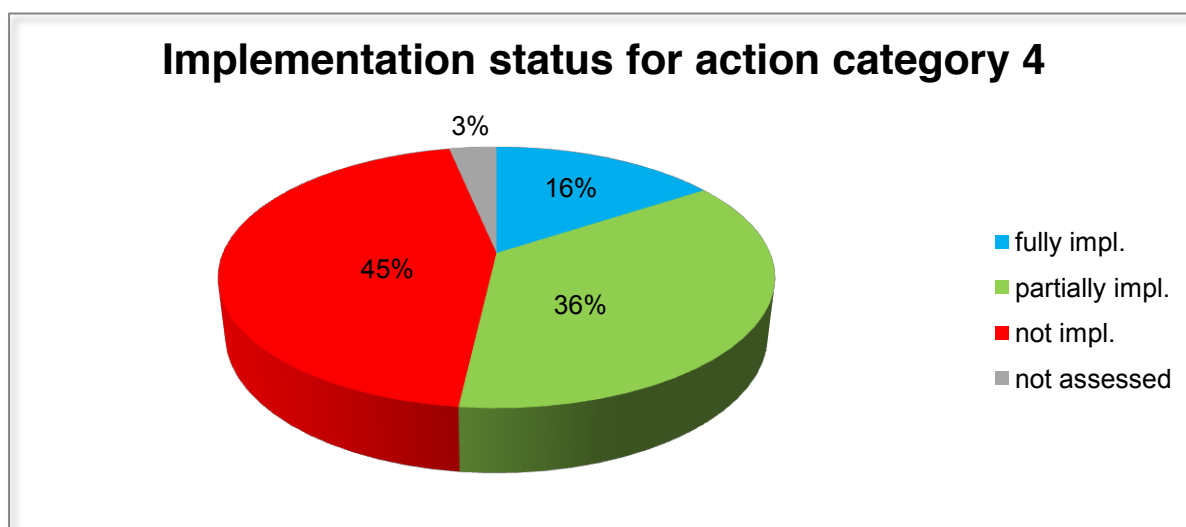


2.3.4. Category 4



*Take further steps to provide access
to education and healthcare for all citizens [...]*

The category 4 recommendations are the recommendations that contain a general element. Such general recommendations can cause frustration on the part of UPR stakeholders, including the state under review, because the recommendations are unclear in regard to the means of implementation or the measurable outcome. At the same time, such recommendations are more easily implemented due to the fact that implementation is open to interpretation. Even a minimal action can be interpreted as partially or fully implemented. This is, perhaps, the reason why, at mid-term, 16 percent of category 4 recommendations were fully implemented, 34 percent were partially implemented, and 45 percent were not implemented. In other words, 52 percent of category 4 recommendations triggered action by mid-term.



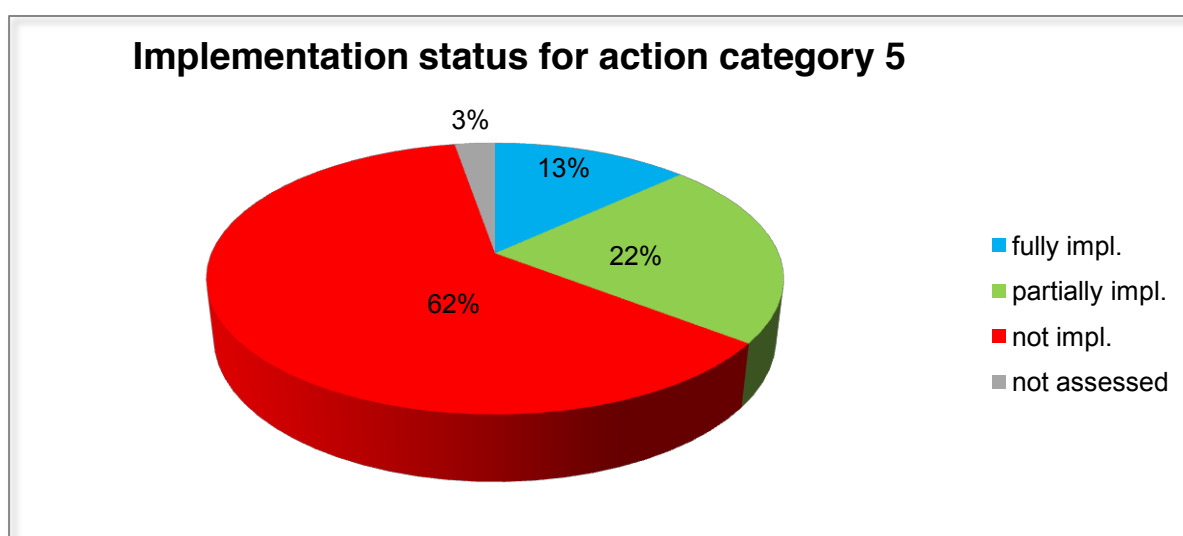
2.3.5. Category 5



Commute all death sentences to terms of imprisonment

Category 5 recommendations usually cover precise topics, ask for specific actions and demand certain tangible or measurable outcomes. The ease with which category 5

recommendations can be implemented varies according to the situation, but such recommendations provide the SuR with very clear directions, which allow for easy monitoring of implementation. While SuRs indicate that general recommendations are difficult to implement because the action is unclear, specific recommendations are also the least likely to be implemented by mid-term. As illustrated in the pie chart below, within category 5 recommendations, only 35 percent triggered action and 62 percent were not implemented at mid-term. Category 5 recommendations have the lowest rate of fully implemented recommendations at mid-term and the highest percentage of recommendations that are not implemented at mid-term.



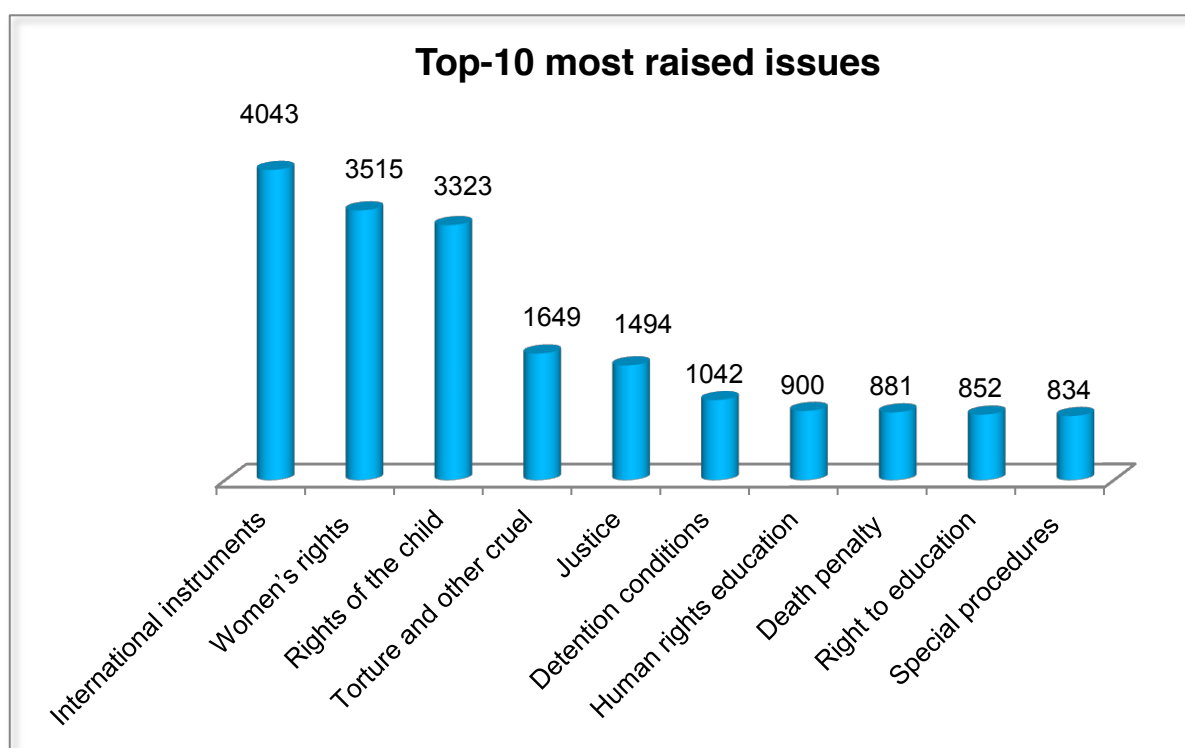
2.3.6. Findings on implementation by action category

As is demonstrated in the previous sections, the less action that a recommendation demands, the more likely it is to be fully implemented by the mid-term. But this does not necessarily translate to progress in the human rights situation. Almost 52 percent of category 4 recommendations triggered action, but the general nature of the recommendations means that even minimal action can be claimed as steps towards progress. Category 5 recommendations triggered the smallest percentage of action by mid-term, at 35 percent, but considering that these recommendations are usually the most difficult to implement and result in the most concrete progress, the percentage is encouraging.

2.4. Implementation by issue

The “universal” in Universal Periodic Review alludes to the possibility for all UN-member states to make recommendations and to be reviewed. However, it also references the universality of the topics covered in the UPR. *UPR Info* maintains a database of all UPR recommendations and voluntary pledges that are tagged according to the topics of the recommendations. The database contains 54 different issue categories. Many recommendations pertain to several issues, thus they are tagged with more than one category¹³.

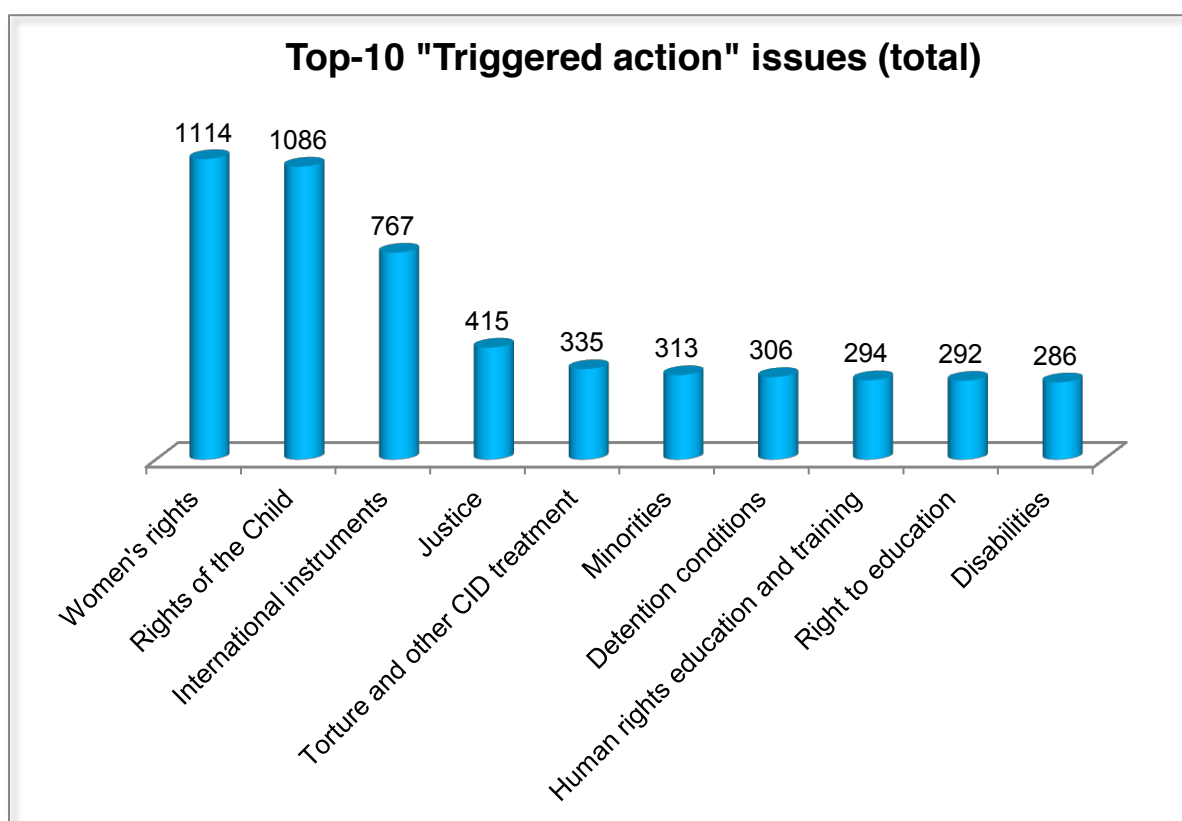
In the commented recommendations included in this study, the 10 most discussed issues were international instruments (4,043 recommendations); women’s rights



¹³ A recommendation can belong to several issues. For example, "ratify OP-CAT" will belong both to the category international instruments and torture and other cruel, inhuman, or degrading treatment or punishment.

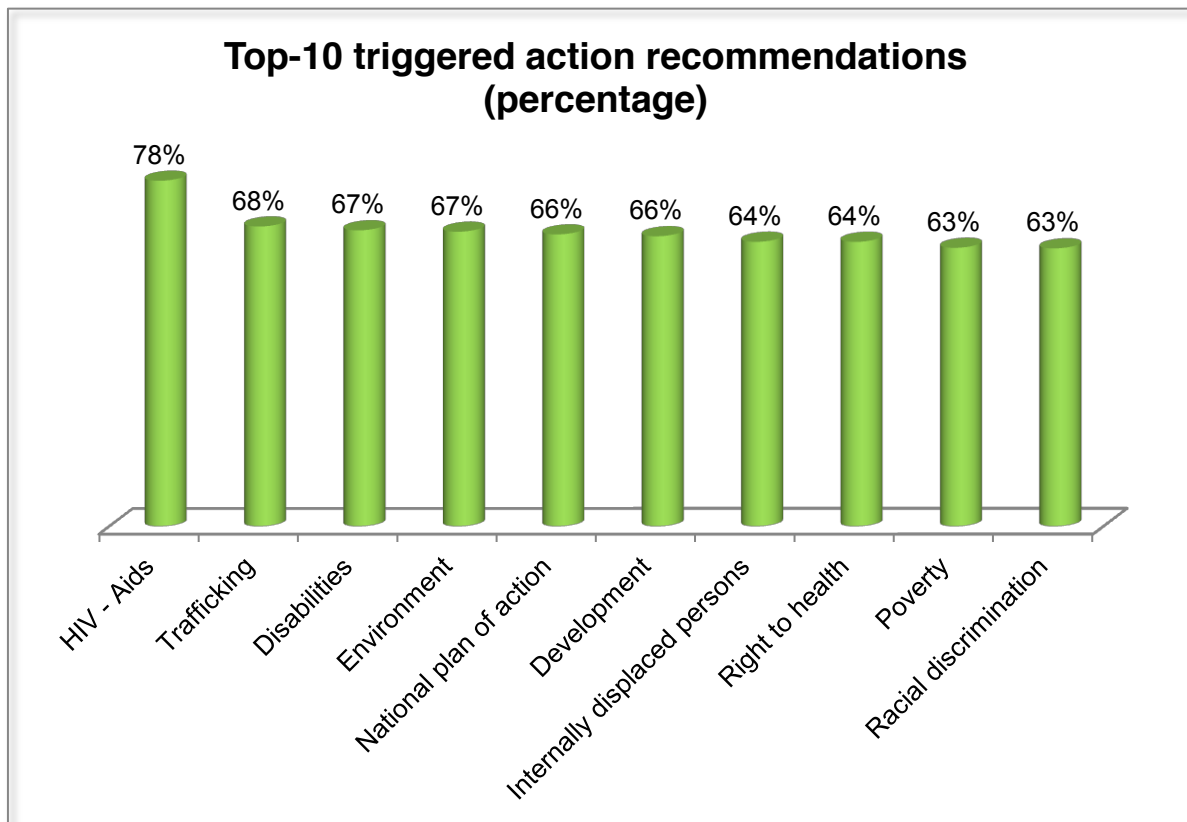
(3,515); rights of the child (3,323); torture and other cruel, inhuman, or degrading treatment or punishment (1,649); justice (1,494); detention conditions (1,042); human rights education and training (900); death penalty (881); right to education (852); and special procedures (834).

As for implementation, the top-10 most implemented issues, were women's rights; rights of the child; international instruments; justice; torture and other CID treatment; minorities; detention conditions; human rights education and training; right to education; and disabilities. The categories listed are general in nature and may overlap, but the list gives us an important indication as to the issues regarding which the most progress has been made. At the same time, we see that the recommendations that were raised the most are also implemented the most.



The graph above focuses on recommendations that triggered action in absolute numbers. But, because these are also issues regarding which many recommendations were made, it is important to examine the implementation of issue categories in greater

detail. If we take another perspective and we look at the proportion of recommendations that triggered action compared to the total number of the recommendations commented on that very same issue, the top-10 list results in a different set of most-implemented human rights issues. We discover the internal dynamic within each issue and see that some issues are highly implemented by states:

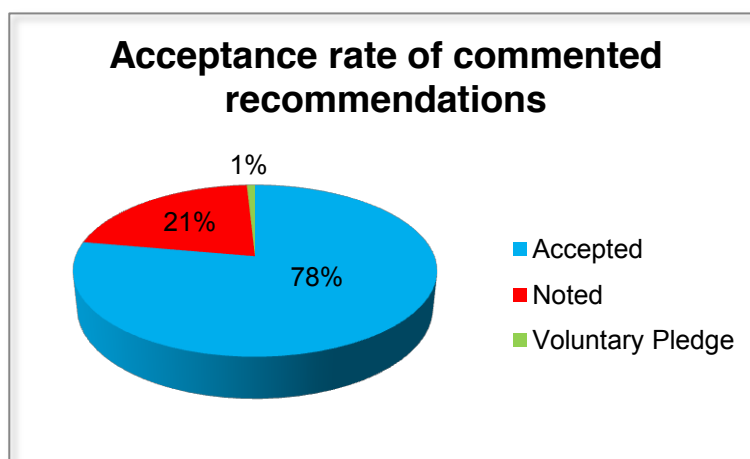


Within the issue of HIV-Aids, for example, 61 recommendations were either partially or fully implemented out of the 78 commented, which means that 78% of the HIV-Aids recommendations triggered action by mid-term. What is interesting in the top-10 triggered action issues indicated in the graph above is that for many of these issues, international efforts, such as specialised UN agencies, exist to help states.

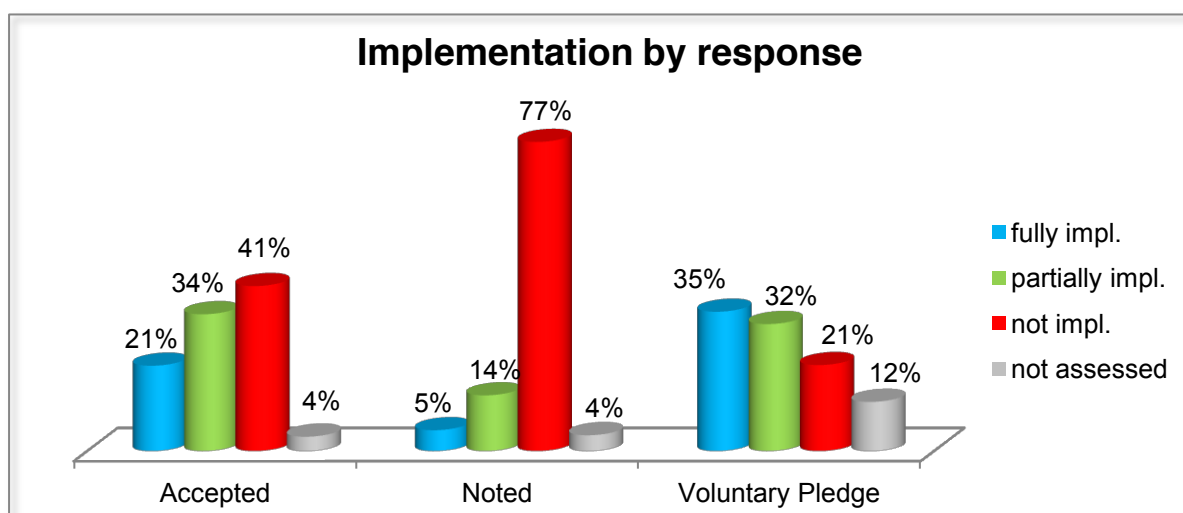
Chapter 4 will attempt to illustrate, in further detail, the actions that SuRs took to implement the UPR recommendations on specific human rights issues.

2.5. Implementation by acceptance

For the 11,527 recommendations on which UPR Info received information, approximately 78 percent were accepted recommendations, 21 percent were noted and 1 percent of recommendations consisted of voluntary pledges¹⁴. While fewer com-



ments were received regarding “noted” recommendations due to the reluctance of stakeholders to undertake monitoring of noted recommendations, the distribution of implemented recommendations in the data is close to the distribution of UPR recommendations in general (73 percent accepted, 25 percent noted, and 2 percent are voluntary pledges).



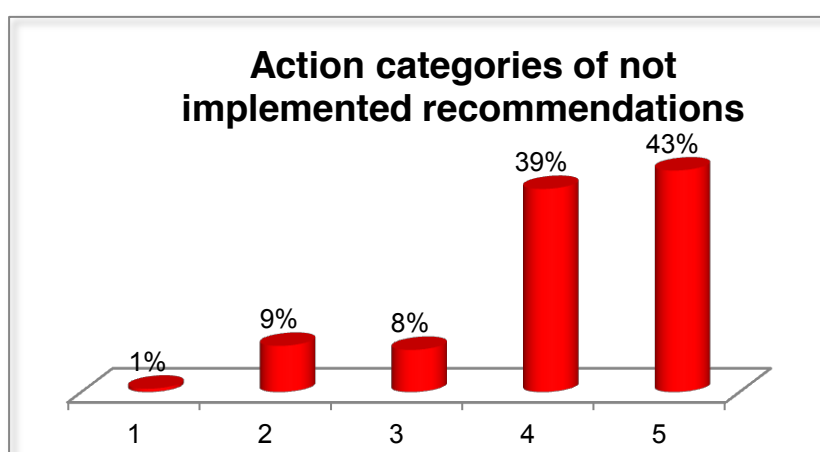
A closer look into the implementation of voluntary pledges, and accepted and noted recommendations indicates that, at 66 percent, voluntary pledges trigger the most action by mid-term. Accepted recommendations also trigger a high rate of action, 55

¹⁴ Voluntary pledges are commitments taken by the government in the context of their UPRs.

percent. Intuitively, since noted recommendations are recommendations considered as "rejected" by the SuR, one would think that these recommendations are not implemented at all. However, as the study finds, noted recommendations trigger action anyway (19 percent). A more detailed discussion of noted recommendations can be found in chapter 3.

2.6. Not implemented recommendations

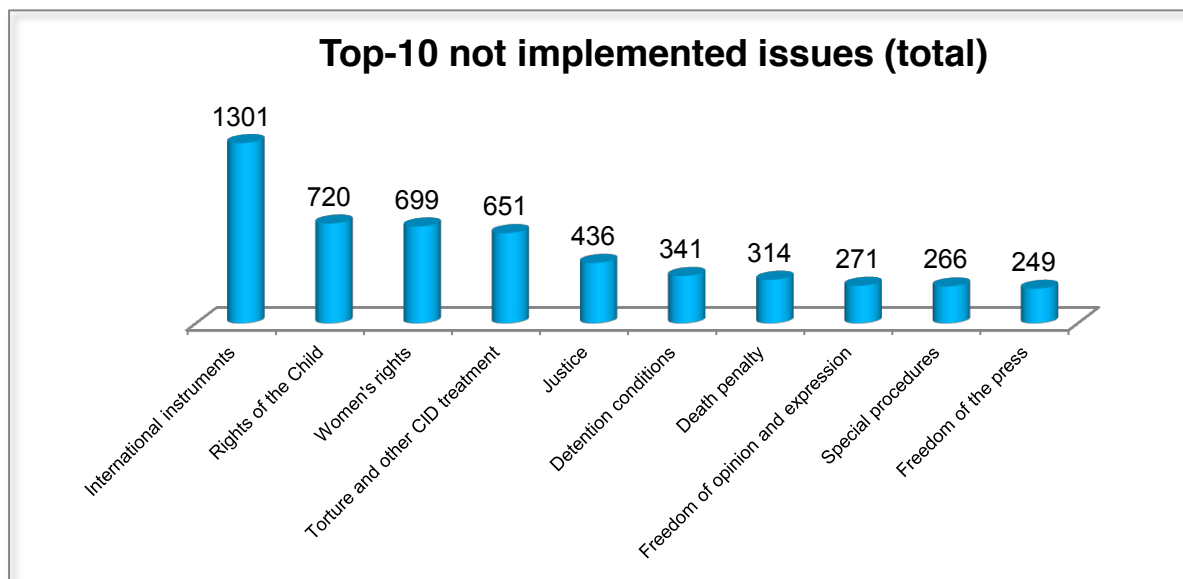
In total, 5,602 recommendations, or 49 percent of the commented recommendations, were not implemented. Why are recommendations not implemented? Firstly, as the previous section shows, the acceptance of recommendations plays a



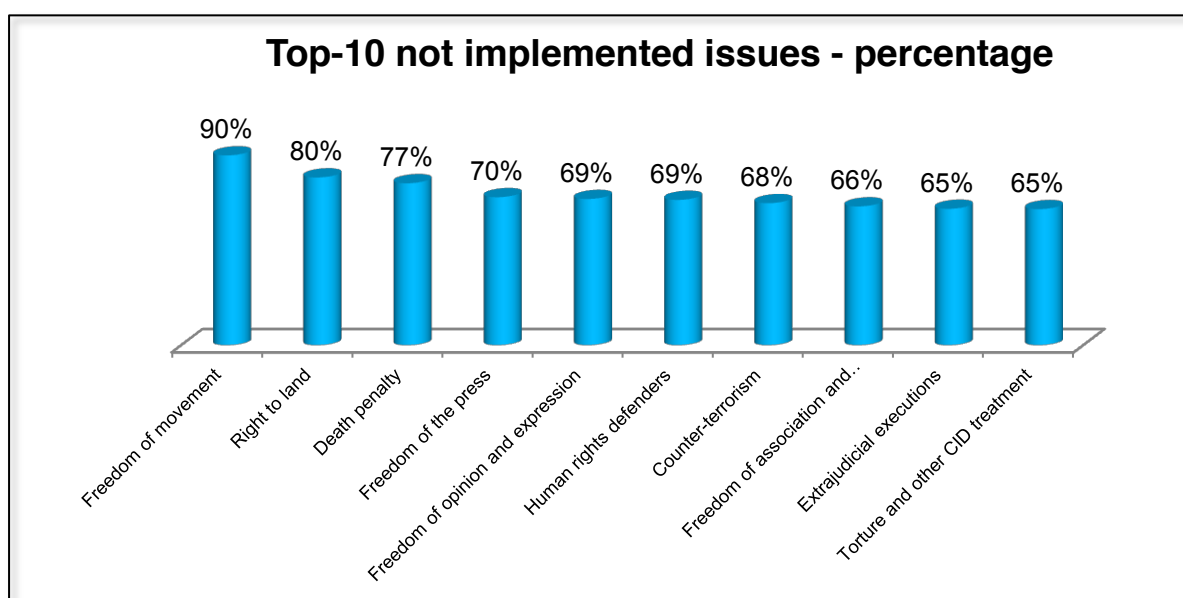
role in the implementation; recommendations that are not accepted tend to be implemented less. Often, the reasons for not accepting recommendations are still relevant at mid-term and, thus, the state does not take action in regard to "noted" recommendations.

In terms of action categories, the highest percentage of recommendations that are not implemented are category 5 recommendations (43 percent), although category 4 is not far behind at 39 percent of recommendations not implemented at mid-term.

As for the top-10 issues that were not implemented, we see that many of the same issue categories that are raised the most in the dataset are also issues with most not implemented recommendations, such as international instruments, rights of the child, and women's rights. These categories simply contain many recommendations, which is why they feature prominently in the lists of most raised, most implemented, and most not implemented recommendations.



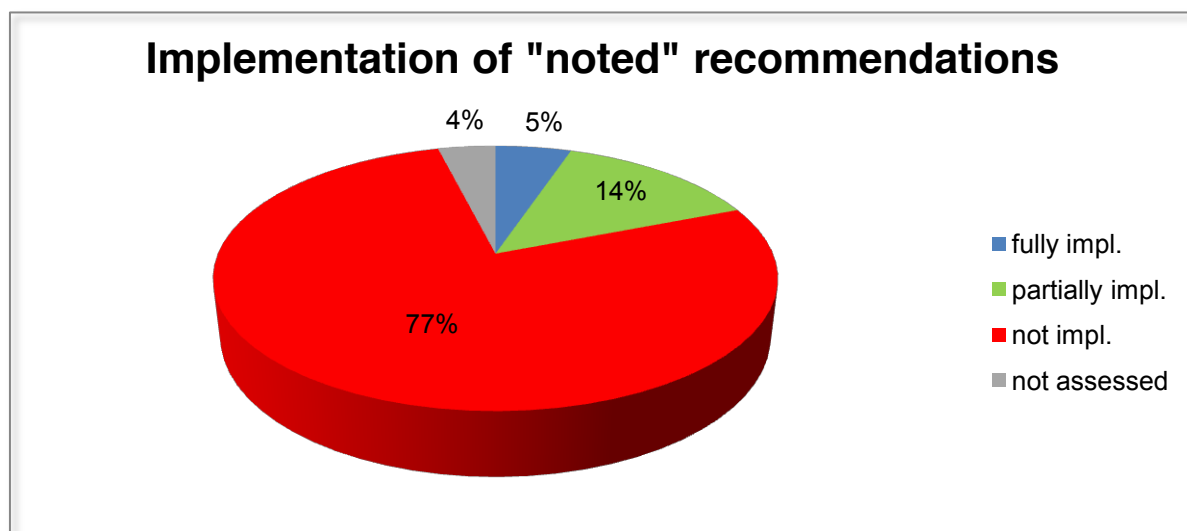
However, if we look at the percentage of not implemented recommendations (in relation to commented recommendations) within the same issue category, we see the following list of issues emerge: freedom of movement, right to land, death penalty, freedom of the press, freedom of opinion, human rights defenders, counter-terrorism, freedom of association and peaceful assembly, extrajudicial executions, and torture. For freedom of movement, for example, 46 out of the 51 commented recommendations were not implemented, resulting in 90 percent of freedom of movement recommendations not implemented by mid-term.



The issues listed in the above graph may be difficult to implement at the national level due to lack of political will. Many of the above-listed issues touch upon the control that the government maintains over its population, such as the freedoms of movement, association, opinion, and press. Such control is especially difficult to relent for regimes that tend to centralise power.

3. “Noted” recommendations

According to Resolution 5/1 of the Human Rights Council: *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*¹⁵. Thus, states can either accept or take note of recommendations received during the UPR process. The reasons for “noting” recommendations, rather than accepting them, vary and SuRs should provide clear explanations regarding “noted” recommendations. Often, recommendations are noted because the government believes that it cannot implement the recommendation within the 4.5-year timeframe until the next UPR. However, the negative response can be temporary, as is sometimes clearly indicated. Malaysia, for example, stated in the addendum to its second cycle working group report that “While unable to accept certain recommendations, Malaysia does not completely reject the possibility of revisiting those recommendations, as appropriate”¹⁶. The temporary nature of the noted response is also illustrated by the fact that 19 percent of “noted” recommendations triggered action by mid-term.



The following sections provide examples and explanations regarding actions taken on noted recommendations.

¹⁵ A/HRC/RES/5/1, paragraph 32. http://s.upr-info.org/resolution5_1

¹⁶ A/HRC/25/10/Add.1, paragraph 5: <http://s.upr-info.org/addmalaysias17>

3.1. Recommendations noted at first, then accepted

Over the course of the UPR cycles, there have been several cases in which states initially noted, but, later, accepted recommendations. Sometimes, this is due to a change in the domestic political climate or to the influence of national actors, such as civil society or the NHRI, on the decision of the state.

Some examples of states accepting recommendations after initially noting them include the cases of Rwanda, and most recently, Denmark. According to human rights defenders, while Rwanda noted seven recommendations at its review in January 2011, during consultations with civil society after the review, the government accepted two of the noted recommendations. In another instance, Denmark, initially accepted 87 recommendations and noted 51 recommendations at its review in 2011, but during the announcement of its mid-term report in 2014, Denmark indicated that it now accepts 20 of the previously noted recommendations¹⁷.

3.2. Implementation of noted recommendations

Of the commented recommendations, 2,464 recommendations were noted. Within that number, 128 were fully implemented. The issues on which noted recommendations were implemented varied greatly. For example, in response to recommendations received during its October 2011 review, Haiti did not accept recommendations that called upon the state to create a national human rights institution in accordance with Paris Principles. Haiti specifically indicated in the Addendum to the Working Group report that it was in the process of considering whether to expand the mandate of the Office for the Protection of the Citizen (Ombudsman) or to create a new institution¹⁸. According to information received at mid-term, the Ombudsman's office had received "A status" by the International Coordinating Committee of the National Institutions for the Promotion and Protection of Human Rights (ICC) only two years after Haiti's UPR.¹⁹

¹⁷ For more information, see: <http://www.upr-info.org/en/news/denmark-accepts-20-new-recommendations-mid-term>

¹⁸ A/HRC/19/19/Add.1 <http://s.upr-info.org/addhaitis12>

¹⁹ See MIA of Haiti: <http://www.upr-info.org/followup/assessments/session26/haiti/MIA-Haiti.pdf>

In another example, during its first UPR in February 2009, Canada did not accept recommendations asking it to re-consider its stance on the United Nations Declaration on the Rights of Indigenous Peoples because it had “concerns with respect to the wording...”.²⁰ However, in November 2010, Canada endorsed the Declaration.²¹

Similarly, Ireland received the following recommendation during its UPR in October 2011: *Introduce legislation to implement the European Court of Human Rights judgment in the A, B and C vs. Ireland case.* Although Ireland had not accepted the recommendation at the review, it was fully implemented by mid-term.

“At our interactive dialogue, the Head of Delegation announced that an expert group would be appointed the following month, drawing on appropriate medical and legal expertise, with a view to making recommendations to Government on how this matter should be best addressed. It was therefore impossible for Ireland to accept this recommendation at that time, as that would have pre-empted the outcome of work of the expert group. Since then, legislation has been put in place and the recommendation has been fully implemented.”

Government of Ireland

3.3. Importance of noted recommendations

As cited earlier, according to the 2006 Resolution 5/1, states cannot reject recommendations that they receive in the UPR process, but only accept or note those recommendations. Furthermore, the resolution states that: *Both will be included in the outcome report to be adopted by the Council.* As a result, both accepted and noted recommendations are part of the outcome report. The resolution further states that: *The outcome of the universal periodic review [...] should be implemented [...] by the State concerned [...]*²². It was undoubtedly envisaged at the beginning of the UPR that states continue to work on noted recommendations in the implementation phase. The 2011 HRC revision, however, brought the concept of accepted recommendations: *The second and subsequent cycles [...] should focus on, inter alia, the implementation of*

²⁰ A/HRC/11/17/Add.1, <http://s.upr-info.org/addcanadas4>

²¹ See MIA of Canada <http://s.upr-info.org/canadaMIA>

²² A/HRC/RES/5/1, paragraph 33. http://s.upr-info.org/resolution5_1

*the accepted recommendations [...]*²³ As a result, states now mention "accepted recommendations" when referring to the UPR recommendations on which they are taking action. This practice, however, is not useful in the context of the UPR. Indeed, some states accepted very few recommendations in the first cycle, while others did not accept any recommendations at all. If the UPR stakeholders were to only focus on accepted recommendations, the UPR would become a purposeless exercise. In addition, as explained above, states do implement noted recommendations. Noted recommendations should, thus, remain an essential part of the UPR process for the sake of human rights, as was intended in Resolution 5/1. Aware of the importance of all recommendations, some states have simply accepted all or almost all recommendations received, such as Benin, Cambodia, Mongolia, Paraguay, Sierra Leone, and Uruguay.

To sum up, there are at least 5 reasons to continue working on "noted" recommendations:

- According to the rules and regulations of the UPR, recommendations cannot be rejected, therefore states can and should continue to work towards their implementation;
- Noted recommendations are implemented to an encouraging extent;
- Noted recommendations can be accepted at a later stage, such as the next UPR;
- If we do not work on the noted recommendations, it could become a *carte blanche* allowing certain states to ignore the most meaningful recommendations (in terms of improvement of human rights for its citizens);
- Recommending states that suggested a noted recommendation can reiterate the same issue again in the next cycle, thus demonstrating the temporary nature of noting recommendations.

The Human Rights Council should take advantage of this promising figure – 19 percent of "noted" recommendations triggered an action by mid-term – and clarify the status of noted recommendations as was originally outlined in Resolution 5/1, which did not make a significant distinction between accepted and noted recommendations.

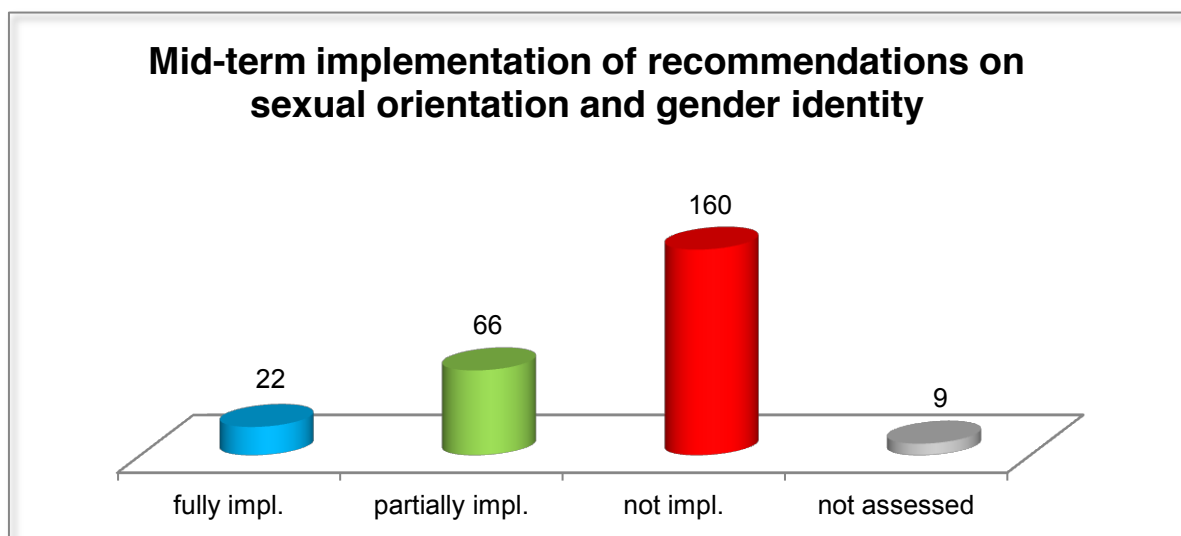
²³ A/HRC/RES/16/21, paragraph 6 http://s.upr-info.org/resolution16_21

4. Illustrating Implementation

While the quantitative analysis presented in the previous chapters provides important information regarding implementation of recommendations at the mid-term, it is also important to know what types of recommendations were implemented and how they were implemented. The following sections illustrate actions that were taken on recommendations regarding sexual orientation and gender identity, death penalty, women's rights, children's rights, human trafficking, minorities, indigenous peoples, people with disabilities, torture, and asylum seekers and refugees.²⁴ The examples provided could be a source of inspiration for states, CSOs, and all other stakeholders.

4.1. Sexual orientation and gender identity

Sexual Orientation and Gender Identity (SOGI) issues are very contentious. Of the 20,452 recommendations open to comments in the Follow-up programme, only 462 were related to SOGI. Of those, slightly more than half were commented, for a total of 253 recommendations. The graph below illustrates that the majority of the commented recommendations were not implemented at mid-term, although 86 recommendations did trigger action.

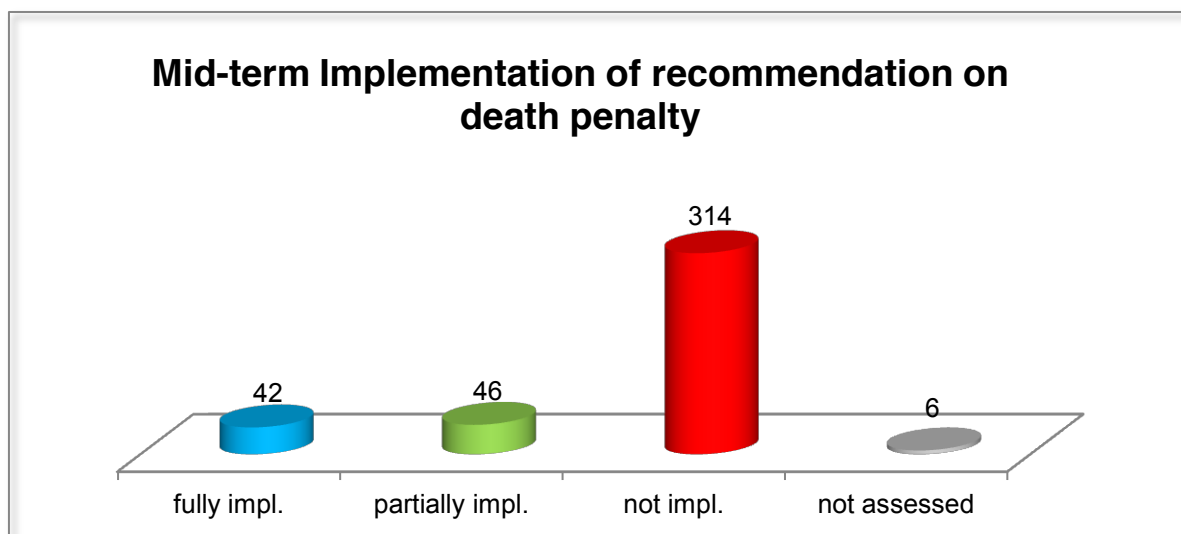


²⁴ All examples in this chapter can be found in the Mid-term Implementation Assessments of the relevant countries on UPR Info's Follow-up programme webpage: <http://www.upr-info.org/followup/>

According to the Mid-term Implementation Assessments, while much work remained to be done, several actions were taken to promote and protect SOGI rights. In Australia, Ireland, and Thailand, by mid-term, steps were taken to recognise same-sex unions. In Nepal, the government amended the regulation on citizenship to provide citizenship to third-gender citizens with their identity indicated in the passport. In Mozambique, the government had removed wording from the draft Penal Code Review Bill that could have been interpreted as criminalization of homosexual relations. In Honduras, a special investigation unit for violent crimes against LGBTI members was created in the Public Ministry. Finally, in Belgium, two national plans to fight homophobia and transphobia were adopted, one dealing with fighting violence and the other with fighting discrimination.

4.2. Death penalty

The death penalty is another contentious issue in human rights. Of the 20,452 recommendations open to comments in the Follow-up programme, 881 were related to the death penalty. Of those, comments were received for 408 recommendations, less than 50 percent. At mid-term, 314 recommendations were not implemented and 88 triggered action.

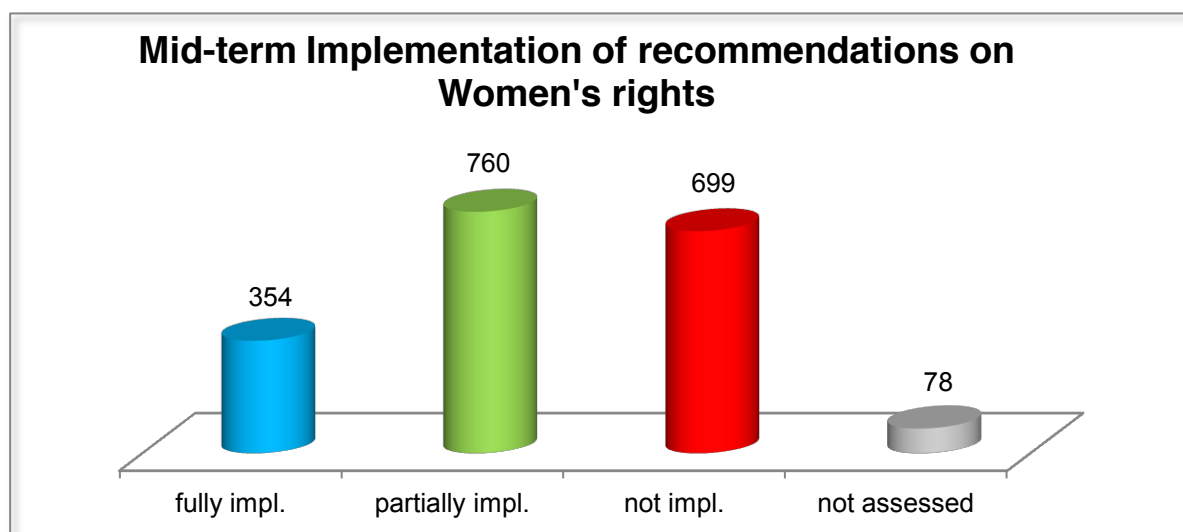


Several types of actions regarding the death penalty had been taken by the mid-term. Mongolia acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), less than two years after its UPR. Thailand also made progress by withdrawing interpretive declarations to Article 6(5) and Article 9(3) of the ICCPR on the abolition of the death penalty for persons below 18 years of age.

Also in Thailand, the Department of Rights and Liberties Protection had organised seminars about the possibility to abolish the death penalty. Similarly, in Tajikistan, the government had created a working group to consider death penalty abolition and a study was being carried out with the support of the Swiss Development Cooperation Office. Another example is Singapore: although the government did not abolish the death penalty, the country amended the application of the death penalty in certain drug-related or homicide offenses. Finally, a very promising example of implementation of a noted recommendation (more in chapter 3) is found in China. While China did not accept two recommendations to reduce the number of crimes carrying the death penalty, in late February 2011 (two years after the review), the Chinese government announced the abolition of the death penalty for 13 economic crimes, thus reducing the original list of 68 crimes punishable by death to 55.

4.3. Women's rights

Women's rights recommendations are the second most-mentioned recommendations at the UPR (3,701 recommendations in the first cycle). As previously demonstrated in



chapter 2.4, at 1,114 recommendations, women's rights is also the issue with the highest number of recommendations that triggered an action by mid-term. However, the category "women's rights" is broad and encompasses issues that are very different in their nature. The following sections will attempt to outline some of the progress that had been made by mid-term on gender equality and domestic and gender-based violence.

4.3.1. Gender equality

Countries such as Georgia, Greece, and Myanmar created national action plans for the equality or the advancement of women, an important step for further action. Institutional arrangements, to assist in the national promotion of gender equality, included: the establishment of a Gender Equality Department of the Greek Ombudsman's office; creation of 22 District Councils for the Advancement of Women in Mozambique; and the establishment of a Gender Equality Council in Estonia that advises the government regarding promotion of gender equality and gender mainstreaming.

Quotas to increase representation of women in public office were adopted in Honduras, Kenya, and Sierra Leone. In Belgium and in Australia, requirements for increased representation of women on certain company director boards were passed. On the issue of gender-equal distribution of resources, the government in Belgium published a manual on gender budgeting and in Estonia, employees of ministries and government agencies were trained in gender budgeting as part of the EU PROGRESS Programme.

4.3.2. Domestic and gender-based violence

To help plan and take action on gender-based violence (GBV), the issue has been incorporated into action plans, such as into the chapter on gender in the National Development Plan 2010-2014 in Colombia, the second National Plan on the Fight against GBV in Haiti, the National Action Plan on GBV in Thailand and the National Plan of Action on GBV in Namibia. Also in Colombia, a database was created specifically for sexual violence crimes in conflict for the purpose of better distributing resources and directing investigations.

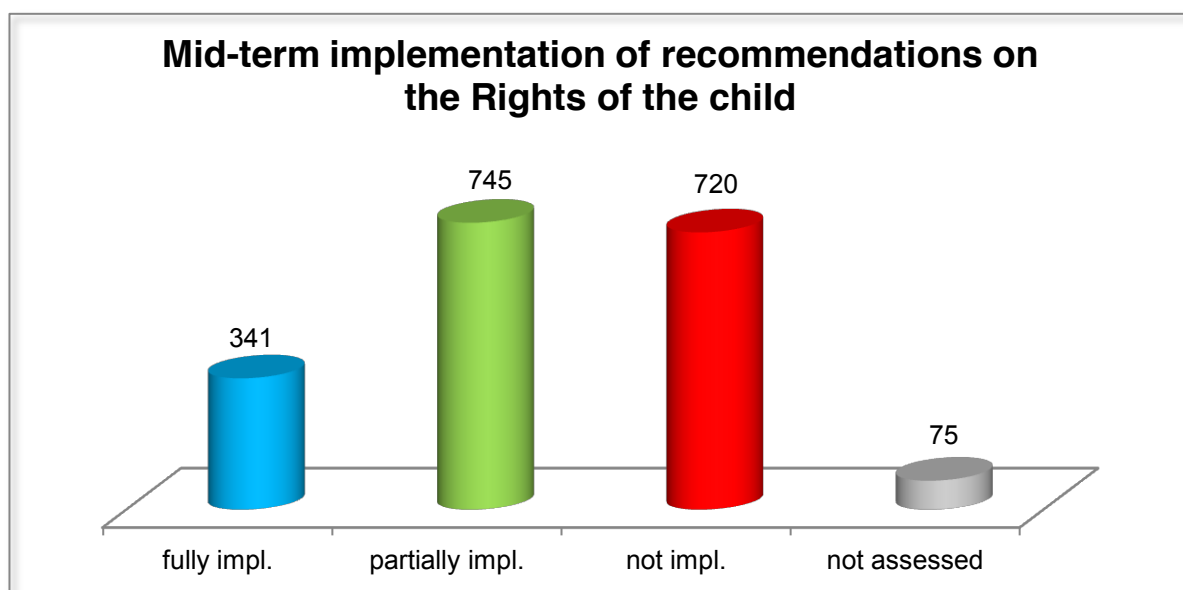
In Haiti, the *Bureau de lutte contre les violences faites aux femmes et aux filles* (Office for the Fight against Violence Directed at Women and Girls) was inaugurated. In Nepal and Tajikistan, centres that provide legal and psychological support to victims were also created. In Bulgaria and Colombia, legal provisions were enacted to provide legal assistance to victims of sexual or domestic violence.

Other legal measures included the 2012 Sexual Offences Act in Sierra Leone that provides protection from sexual abuse and harassment, establishes 18 as the age of

consent, and explicitly prohibits spousal rape; the Law 779 on violence against women in Nicaragua; and Thailand's withdrawal of reservations to Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Finally, training for law enforcement officials was carried out in Sierra Leone and in Haiti.

4.4. Children's rights

Of the 20,452 recommendations open to comments in the Follow-up programme, 3,323 were on children's rights. Comments were received for 1,881 recommendations. The graph above illustrates that 341 of the commented recommendations were fully implemented, 745 were partially implemented and 720 were not implemented at mid-term. With 1,086 recommendations, the children's rights category included the second highest number of recommendations that triggered action by mid-term (after women's rights).



Some general legal and institutional changes that were made by the mid-term were the creation of the National Children's Commissioner in Australia; the new Child and Family Agency, as part of reforms of child and family services in Ireland; amendments to the Ombudsman Act to expand the Ombudsman's competence to child rights in Armenia; enactment of the National Children's Policy that incorporates survival, protection,

development and participation of children in Nepal; and in Sierra Leone, the Ministry of Youth Affairs was inaugurated by the government to create education and employment opportunities for children.

4.4.1. Violence against children

Violence against children comes in many different forms: sexual abuse and sexual exploitation, corporal punishment, or domestic abuse, among others. According to the information provided by UPR stakeholders for the Follow-up programme Mid-term Implementation Assessments, a large variety of actions were taken to implement UPR recommendations. In Belgium, several months after the UPR, an act was passed to improve access to justice for victims of sexual abuse and paedophilia. Also, in the fight against sexual abuse and sexual exploitation of children, the Kenyan government raised awareness in the hospitality and tourist industry, and encouraged hotels and tour operators to sign the Code of Conduct against Child Prostitution. Macedonia also conducted campaigns, in partnership with UNICEF, but on the issue of corporal punishment. Armenia and Togo launched hotlines to facilitate reporting of child abuse. In addition, Togo created a centralised system to detect vulnerable children and victims of child abuse in collaboration with civil society, UNICEF and private companies. Finally, in Mozambique, five ministries (Ministry of Health, Ministry of Education, Ministry of Social Action, Ministry of the Interior, and Ministry of Justice) endorsed the multi-sectoral Plan of Action to Accelerate the Prevention and Response to Violence against Children (2012-2017).

4.4.2. Child labour

To combat child labour, an action plan was developed in 2011 in Namibia that coordinates the actions of the Ministry of Labour and Social Welfare, the Ministry of Education, the Ministry of Gender Equality and Child Welfare, and the Ministry of Safety and Security. On a similar note of cooperation, in Haiti, a committee composed of representatives of the government, employers, and employees was created to ensure the implementation of the ILO Minimum Age Convention (no.138) and the ILO Convention on the Worst Forms of Child Labour (no.182). These two ILO conventions were ratified by Sierra Leone in the month following its UPR and the Child Labour Unit

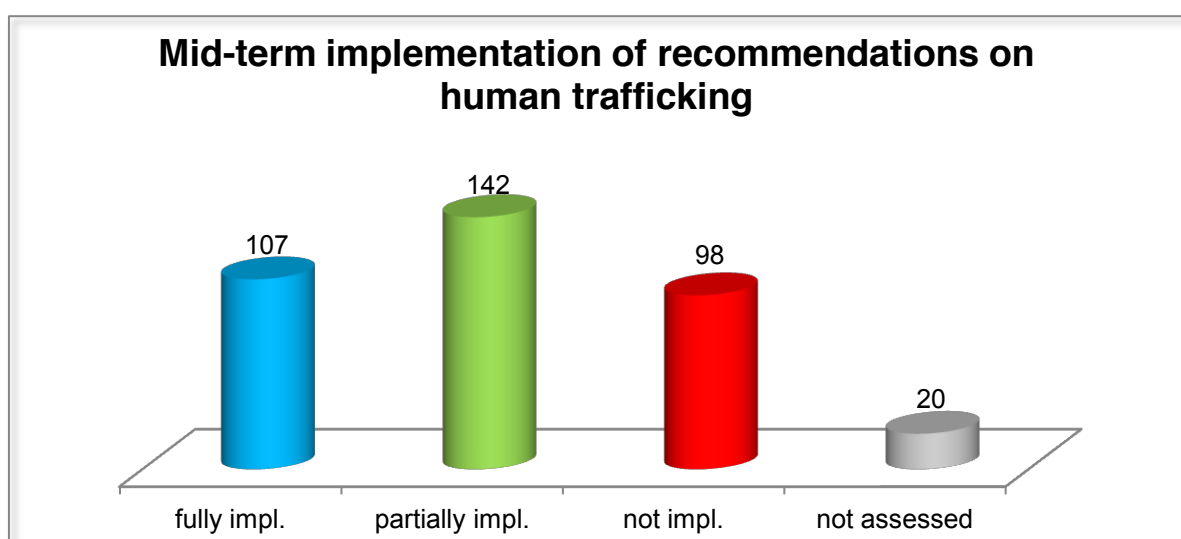
was created at the Ministry of Labour and Social Security to ensure further action regarding the Conventions.

4.4.3. Access to education

In order to improve access to education, Haiti created the *Programme de Scolarisation Universelle, Gratuite et Obligatoire* (Universal, Free and Compulsory Education Programme), re-enforced its national programme of school cafeterias, and put in place a school bus system. In Mozambique, more than 900 new primary schools were opened between 2011 and 2012 and a strategic plan on education for 2012-2016 was approved in June 2012.

4.5. Human trafficking

Of the recommendations open to comments, 618 recommendations pertained to trafficking in human beings. Comments were received for 367 recommendations. Of those 367 recommendations, only 98 were not implemented at mid-term; 107 were fully implemented, and 142 were partially implemented. Thus, 249 recommendations, or 68 percent, triggered action by mid-term.



Actions taken in regard to human trafficking included international and national legal measures and cooperation, awareness-raising, law enforcement training, and provision

of services for victims of trafficking. Zimbabwe, for example, acceded to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Trafficking Protocol) in 2013 and passed an anti-trafficking statute in 2014. In Australia, the Criminal Code was amended to criminalise forced marriage, forced labour, organ trafficking, and other violations, bringing Australia in compliance with Articles 3 and 5 of the Trafficking Protocol. In Haiti, a law was passed to prohibit all forms of trafficking, setting the punishment at up to 15 years imprisonment. In Estonia, a separate provision on trafficking was inserted into the Penal Code.

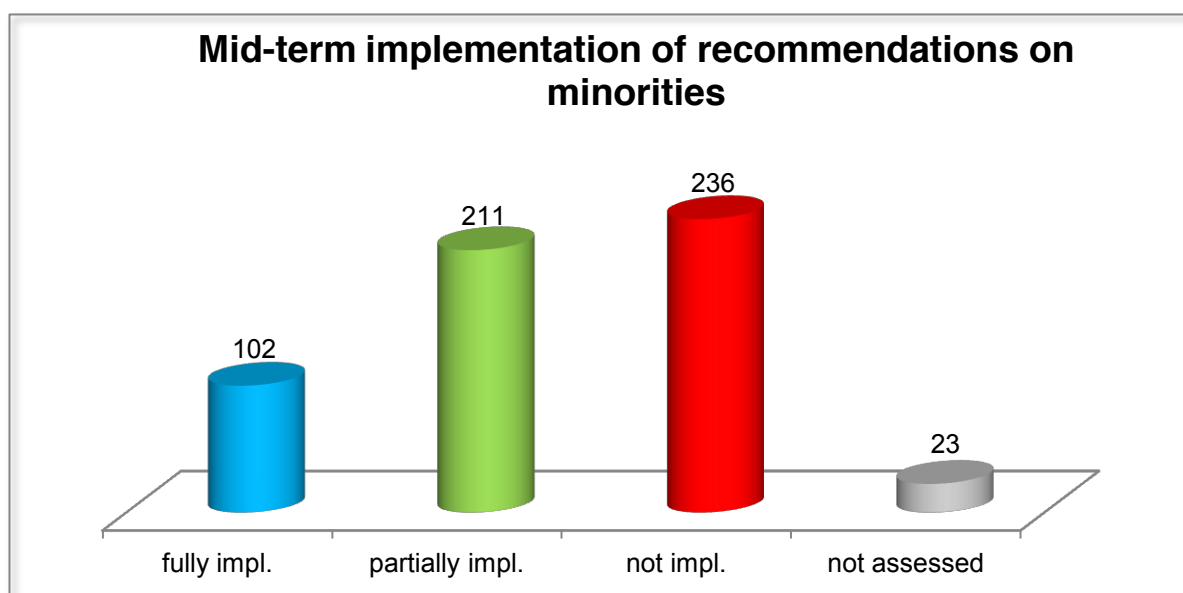
In regard to international cooperation, Tajikistan signed the Memorandum on Cooperation with the International Organisation for Migration, which includes provisions for assistance to victims of trafficking, such as opportunities for employment and education. In Macedonia, the Ministry of Labour and Social Policy partnered with German Federal Enterprise for International Cooperation (GIZ) to implement the Regional Programme on the Fight against Human Trafficking and Social Protection for 2011-2016. In Paraguay, the *Dirección General de Combate a la Trata de Mujeres y Niñas* (Authority on the Trafficking of Women and Girls) was strengthened with international cooperation.

National and regional coordination efforts were also undertaken. In Mexico, the State Council against Human Trafficking of Tlaxcala was established with the participation of civil society organisations. To strengthen its institutional capacity to investigate cases of human trafficking, a special unit on human trafficking was created within the State Investigation Department in Mongolia. In Thailand, according to the government, “specialised task forces have been established to draft and monitor implementation of the Plan of Action on Prevention of Human Trafficking and to enhance collaboration among related agencies”. Thailand was also working on “improving data collection systems and the exchange of information among criminal justice agencies”, among other measures. To raise awareness about human trafficking, signboards and billboards were being used in Myanmar, while Mexico undertook the “Blue Heart Campaign” of the United Nations Office on Drugs and Crimes (UNODC) at the national level. The Blue Heart Campaign calls on different sectors of society to: inform themselves and others about human trafficking; reject any products or services that

profit from human trafficking; report suspicious activities to the proper authorities; and raise awareness with the help of the blue heart symbol²⁵.

4.6. Minorities

The issue of minorities' rights is one of the most-raised issues in the UPR. Of the 11,527 commented recommendations, 313 minorities-related recommendations triggered an action. One of the ways in which SuRs set out to implement recommendations on minorities were through integration strategies, such as the National Anti-Racism and Partnership Strategy launched in Australia in 2012 and the



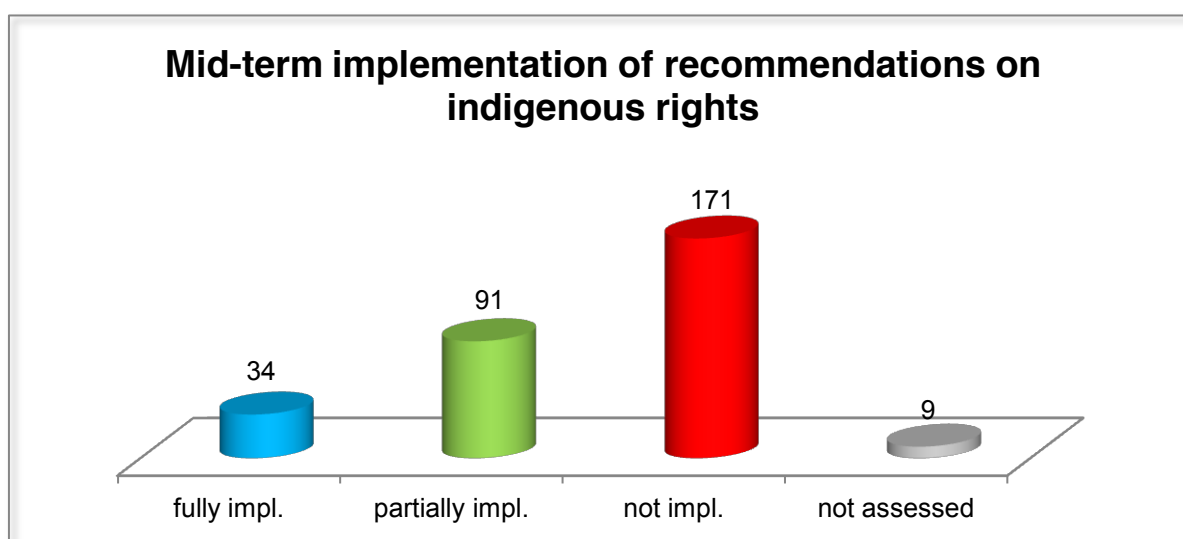
National Roma Integration Strategy in Greece and in Bulgaria. In Estonia, the plan Integrating Estonia 2020 was developed to facilitate integration through measures such as learning the Estonian language while also encouraging minorities to maintain their languages and cultures. In Belgium, the police carried out an awareness-raising campaign on racial hatred, while in Macedonia, the project Roma Health Mediators was begun, in cooperation with NGOs, to raise awareness among the Roma population about the ways in which they can protect their health. In Armenia, with the support of UNDP, the Tolerance Programme was being implemented in schools to increase

²⁵ For more about the Blue Heart Campaign, please see: <http://www.unodc.org/blueheart/en/about-us.html>

tolerance and promote conflict resolution. Finally, in Nepal, the Caste-based Discrimination and Untouchability Act was adopted several months after the UPR.

4.7. Indigenous peoples

Of the 11,527 commented recommendations, 305 were related to indigenous peoples' rights. Of those 305 recommendations, 34 were fully implemented, 91 were partially implemented and 171 were not implemented at mid-term.

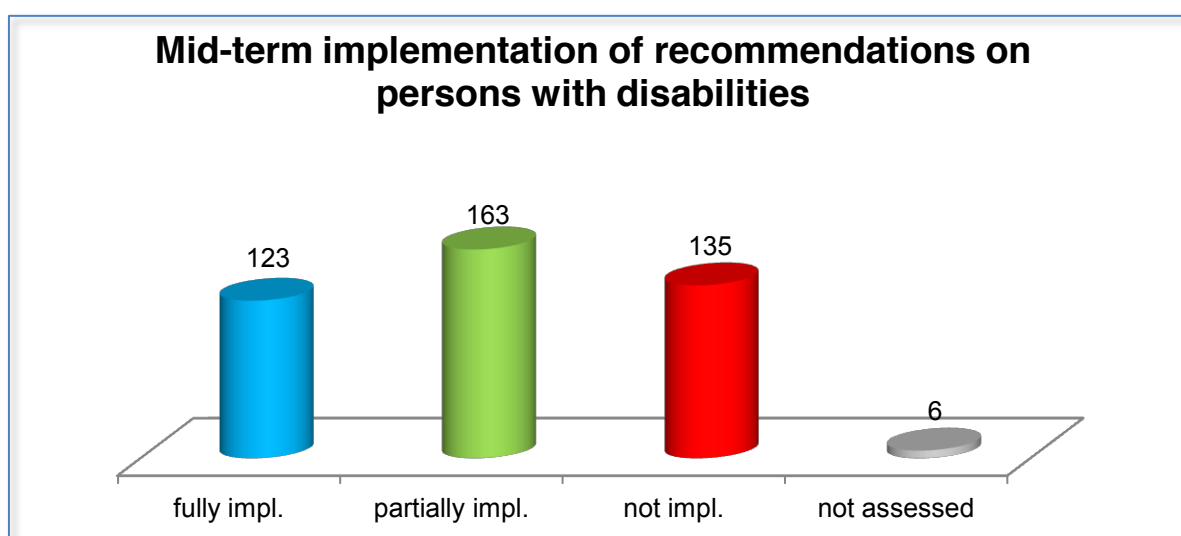


Various legal and programmatic actions were taken by mid-term to implement recommendations on indigenous peoples' rights. Nicaragua adopted the *Ley de Trato Digno y Equitativo a Pueblos Indígenas y Afrodescendientes* (Law on Dignified and Equal Treatment of Indigenous Peoples and Peoples of African Descent) that, inter alia, makes guarantees regarding access to employment opportunities in the private and public sectors, the use of indigenous languages in public institutions, and includes discrimination against indigenous peoples as a crime in the Penal Code. In Sweden, a constitutional law was amended making it clearer that the Sami have a special status as indigenous peoples. In Namibia, the 2005 San development programme that covered issues such as resettlement, sustainable livelihood support programmes, education, land and income-generating initiatives was extended to the Ovaherero and Nama communities. Finally, in Australia, measures included the establishment of the Prime Minister's Indigenous Advisory Council; publication of the National Indigenous Health Plan for 2013-2023, which was developed in consultation with

indigenous health stakeholders; and the finalisation of a framework for engagement between government agencies and the National Congress of Australia's First Peoples.

4.8. Persons with disabilities

Of the 20,452 recommendations open to comments in the Follow-up programme, 708 were related to persons with disabilities. Of the 427 recommendations on which *UPR Info* received comments, 286 triggered an action (123 fully implemented and 163 partially implemented), a rate of 67 percent.



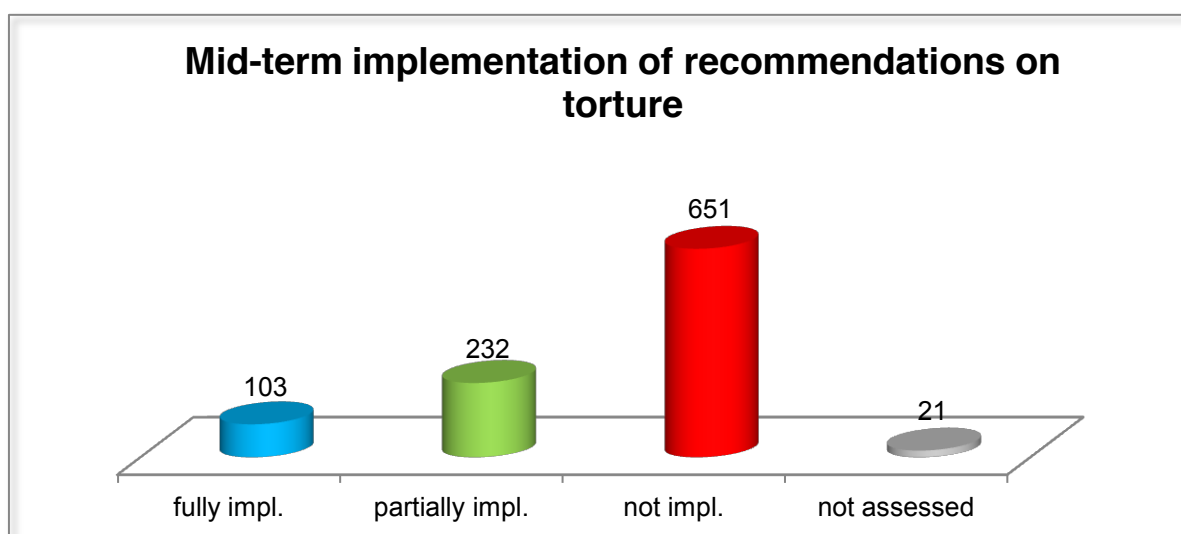
One of the ways in which recommendations were implemented was through ratification of the Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol (OP-CRPD). Greece, Estonia, Macedonia, Zimbabwe and Mozambique, among others, ratified both the CRPD and the OP-CRPD by the mid-term after their reviews in Geneva. States such as Singapore, Bulgaria, and Myanmar had also ratified the CRPD, but not the OP-CRPD).

Other actions towards implementation of UPR recommendations included legal and institutional measures, adoptions of plans of action, and awareness-raising campaigns. In Sierra Leone, for example, the government enacted the Persons with Disability Act of 2011 and established the National Commission for Persons with Disability that developed a strategic plan for 2014-2018. Haiti adopted a law in 2012, according to which the government must take measures to integrate disabled persons into Haitian

society. In Mexico, the Mental Health Act, which acknowledges the protection of the rights of persons with mental disabilities as a state obligation, was approved in December 2010. Both Australia and Greece began to implement action plans – the National Disability Strategy and the Accessibility Program in Local Level, respectively. Greece also enacted a law by which the Labour Inspectorate monitors to ensure equal treatment for persons with disabilities. In Mongolia, to ensure that persons with disabilities can exercise their right to vote, the Mongolian government, in collaboration with civil society, was carrying out an accessibility campaign. Finally, in Sweden, the Swedish Agency for Disability Policy Coordination (Handisam) created a programme in cooperation with the National Collaboration for Improved Mental Health and the Swedish Association of Local Authorities and Regions to change attitudes towards people with mental illnesses and mental disabilities. In this regard, two projects – See the Skills and See the Power – are “aimed at altering the attitudes of employment agencies and employers and encouraging a better integration of people with mental disabilities in the labour market.”

4.9. Torture

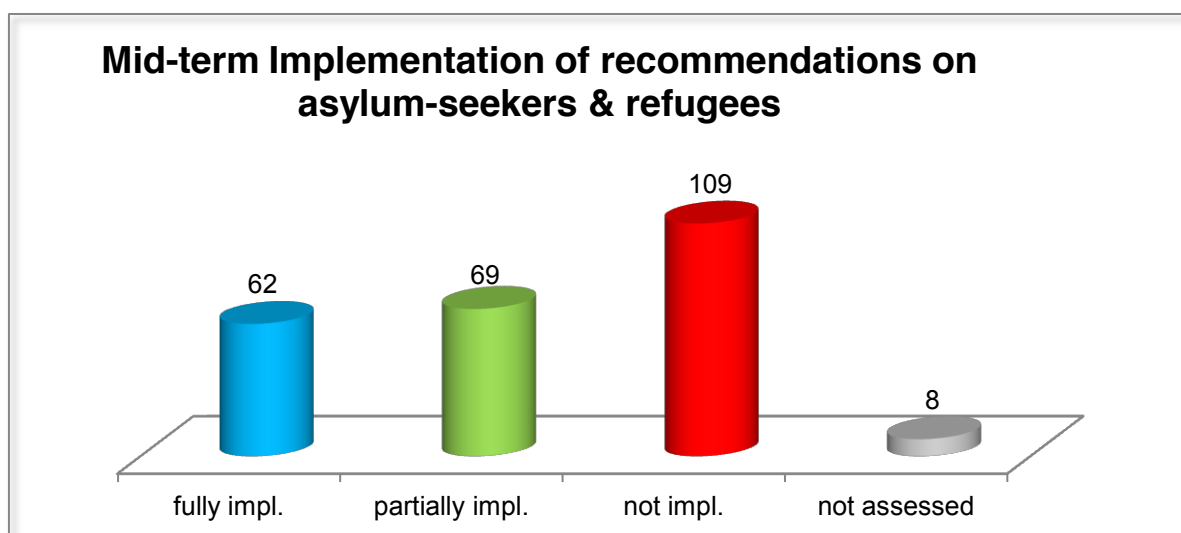
Of the 20,452 recommendations open to comments in the Follow-up programme, 1,649 were on torture. Of those, 1,007 recommendations were commented. Although 335 recommendations triggered an action, a high number of recommendations were not implemented at mid-term (651 recommendations).



Some of the examples of the ways in which the recommendations did trigger action were the ratification of the Optional Protocol to the Convention against Torture (OPCAT) or steps towards ratification; the establishment of national preventive mechanisms; and efforts to ensure that the domestic definition of torture is in accordance with article 1 of the Convention against Torture. Awareness-raising and trainings were also undertaken. In Sierra Leone, the Robben Island Guidelines on Torture, Prevention and Needs of inmates was popularised as part of the Prison Strategic Plan for 2012-2014. In Mongolia, Tajikistan and Honduras, law enforcement officials completed training sessions on the prevention of torture. Also in Tajikistan, the Criminal Code was amended to provide criminal punishment of torture. Furthermore, the General Prosecution in Tajikistan collaborated with the Organization for Security and Co-operation in Europe (OSCE) and NGO Human Rights Centre to develop methodological guidelines on effective identification, prevention and investigation of torture.

4.10. Refugees and asylum seekers

Of the 20,452 recommendations open to comments by the Follow-up programme, 381 were on asylum-seekers and refugees. *UPR Info* received comments for 248 recommendations. Overall, 131 recommendations on asylum seekers and refugees triggered action, while 109 recommendations were not implemented by mid-term.



In an effort to ensure protection of asylum-seekers' and refugees' rights, Greece established a new Asylum Service responsible for granting asylum or subsidiary protection. The Central Service is located in Athens and 13 Regional Asylum Offices are envisioned in the plans. Several regional offices were already operating by mid-term (2014), with more expected to open in the same year. The Asylum Service cooperates with local, regional and international organisations. Greece also established new pre-departure detention centres in different regions of the country to improve the conditions of detainees awaiting travel documents to return to their countries of origin. In order to ensure that detainees are aware of their rights, information from the United Nations High Commissioner for Refugees (UNHCR) is provided at most of the pre-departure detention centres. Furthermore, UNHCR and NGOs have access to the centres and the ability to contact the detainees.

Other actions to improve refugees' rights include the adoption of a law in Chile in 2010 that sets "provisions on the protection of refugees" and establishes the Commission for the Recognition of the Refugee Status. In Latvia, the Latvian State Border Guard signed a Memorandum of Understanding (MoU) with UNHCR in order to improve cooperation on developing and implementing "protection-sensitive border management". The agreement also provides for monitoring of border-crossing points and detention facilities, as well as capacity-building for the State Border Guard staff.

5. Lessons learned – UPR stakeholders

As is illustrated in the previous chapter, not only is the UPR a voluntary and cooperative mechanism with political discussions taking place in Geneva, but only 2.5 years after the review, the recommendations are triggering action. However, this would not be the case without the engagement of all relevant stakeholders, including the states under review, recommending states, national human rights institutions, civil society organisations, and UN entities. Over the years, *UPR Info* has been gathering and providing information about the possibilities for engagement that the UPR offers to all stakeholders²⁶. In addition, in preparation for this publication, we have carried out close to 40 interviews with states, civil society, UN agencies, and NHRIs from various countries, including Armenia, Australia, Bangladesh, Belgium, Cambodia, Costa Rica, Greece, Laos, Lebanon, Lithuania, Malaysia, Mali, Mexico, Mongolia, Nepal, Norway, Paraguay, Russia, Rwanda, Senegal, Switzerland, Tajikistan and the United Kingdom. *UPR Info* also interviewed groups that have a thematic and/or a regional focus. These actors were asked about their approaches to the UPR, the challenges faced and the progress made.

Although the focus of this publication is on the mid-term implementation of first cycle UPR recommendations, the UPR is a cyclical process. Thus, the engagement, or lack thereof, in one part of the process has repercussions for other parts of the process. To ensure that engagement with the UPR results in action on the ground, it is imperative to remain active throughout the entire process. For this reason, the following sections will elaborate on lessons learned for the implementation phase, as well as other stages of the UPR process.

5.1. Lessons learned – States under Review

The State under Review (SuR) is at the centre of the UPR. The SuR provides information before, during, and after the review, makes the decision as to which recommendations to accept and, most importantly, is the main actor responsible for the implementation of the UPR recommendations. Thus, the will of the SuR to meaningfully engage in the mechanism is an important determinant for the effectiveness of the UPR in achieving progress in the national human rights situation. This chapter aims at

²⁶ More information can be found on www.upr-info.org, under the “how to participate” tab.

sharing good practices in terms of state engagement with the UPR and will predominantly focus on activities that the government could undertake in this regard.

5.1.1. The three Cs

States, in their role as the main actors of the UPR, have faced many difficulties in translating recommendations to actions, but have also had great successes, as is illustrated in chapter 4. The first cycle of the UPR has proven to be a learning process but states clearly believe in the mechanism and are leading by example. The key lessons learned in their experiences are the three Cs: **coordination**, **communication**, and **collaboration**. The three Cs are themes present throughout the entire UPR process and cut across the best practices presented in the next sections.

Coordination – coordinate across government ministries, branches and levels to ensure effective implementation of recommendations.

Communication – clearly communicate responses to recommendations, plans for implementation and progress made.

Collaboration – collaborate with national human rights actors and international partners to implement recommendations.

5.1.2. In preparation for the Working Group review

At the beginning of the UPR, states faced a new mechanism and most did not know what to expect about the procedure, nor the outcome. In response to this challenge, SuRs not only relied on their Permanent missions in Geneva, but found several creative approaches. To obtain an idea of how the UPR unfolds, several representatives from Tajikistan – including the state, the Ombudsman, and civil society – came to Geneva, in advance of Tajikistan's review to observe the review in the Working Group of Georgia. Alternatively, a mock UPR was held in Thailand and

Bangladesh, to achieve the same result: a better understanding of the way in which the review in the Working Group is carried out.

In the second UPR cycle, the issue of facing the unexpected has mostly been resolved since all states have already undergone at least one UPR. However, considering that certain aspects of the UPR procedure have changed after the first cycle and that government representatives may have also changed, ensuring that the SuR representatives understand the UPR mechanism and can achieve consistency with predecessors' work is an important step towards engaging meaningfully with the UPR. Therefore, before engaging in the UPR, actors should have a solid understanding of the mechanism and its different parts²⁷.

National consultations help to prepare for the Working Group review

A method of preparation that is especially useful in the second cycle of the UPR is the organisation of national consultations. Holding national consultations approximately one year prior to the UPR in various regions and with different stakeholders is a widely recommended practice. These consultative meetings can

also be supplemented by a website, such as the websites created by Brazil and the UK, that allowed stakeholders to comment on draft versions of the national reports.

Consultations with civil society can be useful in multiple ways. Firstly, national consultations allow the state to gather information and, perhaps, a different perspective from the people who work first-hand on the relevant issues. Furthermore, civil society stakeholders, NHRIs, and UN agencies also submit information for the UPR, which is often used by "Recommending states" to draft recommendations. Thus, national consultations with these actors are also a way to gauge the issues and recommendations that will most likely be discussed in Geneva.

Consulting with national stakeholders has become ever-more important in the second UPR cycle. National reports in the second cycle should provide information on the human rights situation in general, the progress achieved on recommendations in the previous cycle, as well as the current and future plans of the SuR in regard to its national human rights efforts. Incorporating the assistance of national partners in

²⁷ Explanations, toolkits and other useful information can be found on the UPR Info website, particularly on: <http://www.upr-info.org/en/how-to/state-under-review>

gathering information about the human rights situation and possible solutions can ease the SuR's reporting burden.

5.1.3. Responding to the recommendations

States under review are not typically surprised by the issues raised in the Universal Periodic Review. States indicate that the recommendations received during the review touched upon the issues that had already been identified by the SuR and its domestic partners prior to the review. This demonstrates that the discussions at the UPR accurately reflect the situation in the reviewed country.

Upon completion of the review, the SuR should respond to the recommendations received by indicating which recommendations it does or does not accept. Due to the differences in government structure, states have many options in responding to the recommendations. SuRs

Provide clear responses
to the recommendations

can respond to recommendations at the Working Group review, or at any time following the review, until the adoption of the Working Group report in the Plenary Session of the Human Rights Council. Mexico, for example, indicated that comparing its first and second review experiences, it saw an advantage in taking the four months between the review in the Working Group and the adoption of the report in the Plenary in order to respond to the recommendations. According to the Mexican government, this worked in favour of the acceptance rate because the government was able to use the three months to analyse the recommendations and find ways to implement them.

All Recommending states employ different strategies when accepting recommendations. Some SuRs, such as Benin, Cambodia, Mongolia, Paraguay, Sierra Leone, Uruguay, among others, focused on the principle of the recommendations, thus accepting all or almost all of the recommendations received. Similarly, Ireland and Switzerland believed it to be important to accept all recommendations that the countries meant to implement, whether in the 4.5-year period until their next UPRs or in the long-term. Other states, such as Tajikistan, preferred to focus on accepting only the recommendations that the government could implement in the 4.5 years until the next review.

Whichever strategy a SuR feels is best for its particular situation, it is important to clearly communicate the responses to recommendations, including reasons for not

accepting certain recommendations (if any), and further actions planned for the implementation period. However, since the UPR is an on-going process, the next UPR should not be seen as a final deadline for implementation; all possible efforts toward the implementation should be made by the next UPR and even more progress should be envisioned after the next UPR.

5.1.4. *Planning implementation*

Translating recommendations into practical actions requires effective coordination among many branches and levels of government. Reflection regarding the best method for implementing recommendations should begin in advance of the UPR to ensure prompt reaction to and action on the recommendations received. The following are ways in which states have proceeded in planning their implementation.

Firstly, it is important to choose a coordinating body and to supply it with tools for implementing recommendations. In Greece, for example, the coordinating role was assigned to the Ministry of Foreign Affairs, but in order to ensure inter-ministerial collaboration, a working group was established. The working group should not only include representatives from different ministries and regions, but also the national human rights institution and civil society representatives, to improve national collaboration on implementation. In Mauritius, for example, a steering committee was created that included all types of actors – government, NHRI, and CSO representatives.

Create a steering committee that includes government and civil society representatives

Once the working group is created, the focus turns to the recommendations. The issues covered in the UPR recommendations are also discussed in other international forums; therefore, some states have chosen to include recommendations from international and national forums in the implementation plans. All of the recommendations are clustered by issues and divided among the many ministries responsible for implementing the recommendations. Given the high number of recommendations that states receive at the UPR, as well as from other human rights bodies, one of the tools that states have chosen to use for organisational purposes are databases. Australia, for example, has created a public database of its UN human rights recommendations.²⁸ Paraguay has elaborated an extensive database that

²⁸ Australia's database can be found here: <http://s.upr-info.org/australiadatabase>

includes recommendations from international, regional and national mechanisms²⁹. Other states, such as Mexico and Colombia, created internal databases to help in the coordination of implementation.

Collaborate with national partners on implementation

In addition to assigning responsible ministries and government agencies to the many recommendations, it is important to set measurable indicators as to the actions to be undertaken and the time-frame for those actions. Matrixes can be helpful in organising this information³⁰. At this stage, it is also important to have wide consultations with national

partners, such as civil society organisations. International partners, such as UN agencies or international donors who may have ideas and resources for implementing the recommendations, should also be involved. Finally, the SuR could apply to the Voluntary Fund for Financial and Technical Assistance for the Implementation of the Universal Periodic Review.

The result of the consultations and planning can be created into a National Human Rights Action Plan, a critical tool for ensuring clear communication of the SuR's goals, planned actions, and capacities. Many states (inter alia, Australia, Tajikistan, and Tanzania) have chosen to create national action plans that incorporate UPR recommendations. Such plans serve as useful reference points for all national and international actors and show the government's commitment to taking practical steps toward improving human rights.

Create, publish and publicise a National Action Plan

Some important aspects to consider in writing an action plan are periodic evaluation, political support, government transition, and maintaining a balance between legal and programmatic actions. In order to ensure that the action plan is implemented according to the intended timeframe, a monitoring mechanism should be integrated into the action plan. For example, annual, bi-annual or even quarterly updates regarding the implementation can be helpful to maintain steady progress. In addition, to avoid opposition to the National Action Plan after its creation, it is important that the plan receives political support from the various government actors, such as the parliament, president or other parts of the government. This is particularly important if a government transition period, such as in the case of election years, may disrupt the

²⁹ For Paraguay's database, please see: <http://www.mre.gov.py/mdhpy/buscador/home>

³⁰ Model matrixes can be found in the Annex (p. 91) of "Practical Guide on the Implementation of UPR Recommendations and Pledges" *International Organisation of La Francophonie* http://www.upr-info.org/sites/default/files/general-document/pdf/oif_guide_upr_implementation.30.04.2013_e.pdf

regular course of work. Involving the parliament at an early stage can prove to be especially helpful in this regard. Finally, the SuR should be mindful of the gap between legal and practical implementation. While legal progress is an integral part of human rights protection and promotion, it is important to integrate programmatic or development projects that will reinforce the implementation of the laws.

5.1.5. Communicating plans

Mexico, a country with ample experience with national action plans, pointed out that in order to take the implementation of the plans further, the local level actors should be involved. All sectors of the government, as well as grassroots organisations, must participate to make the implementation effective. Therefore, it is important to communicate the plans that the government has set out; raising awareness with the help of a website or webpage, social media, television, radio or community meetings.

The national partners who assisted in the development of the plan can also help to spread awareness. In Tajikistan, for example, not only did the government, civil society coalition representatives, and the Ombudsman's office hold a three-day meeting to write the National Action Plan, but the three sides also travelled to various regions of the country to present the plan and answer questions.

5.1.6. Communicating progress

Submit a mid-term report

UPR mid-term reporting at the Human Rights Council is voluntary. However, according to the states who have submitted mid-term reports, writing such a report is a great way to ensure that national stakeholders and the international community are aware of the progress made. Mid-term reporting also provides an opportunity to evaluate and discuss the implementation of UPR recommendations, so it is a good idea to once again consult national stakeholders in order to gather information and feedback. The report should provide information on all UPR recommendations, including accepted and noted recommendation, as well as voluntary pledges. A statement under Item 6 of the General Debate in the Human Rights Council in regard to the mid-term report helps to inform the international community about the report and the continued commitment of the SuR to human rights progress.

Aware that reporting at mid-term could greatly improve the UPR mechanism, Morocco and the United Kingdom committed, on behalf of 89 states, to sharing mid-term

Working together to implement UPR recommendations

During the first cycle of the UPR in 2008, the Government of Colombia received a recommendation from the Czech Republic to “Adopt measures ensuring effective national birth registration, including through programmes of mobile registration units and registration of those without documentation”.

Following up on the implementation of this recommendation, child rights organisation Plan International partnered with the Government of Colombia, providing key support to strengthen the capacity of the state to ensure the right to identity of all persons within its borders.

Plan, in collaboration with other civil society organisations and UNHCR, supported the National Civil Registry Office of the Government of Colombia in bringing attention to populations at risk or in situations of displacement. To this end, a Vulnerable Populations Unit was created by the Government to guarantee that vulnerable populations, including persons at risk of displacement, and indigenous and Afro-Colombian communities had access to identification documents. During this process, Plan specifically supported the Mobile Units charged with registration throughout the country.

On various occasions, Plan provided both technical and financial support to duty bearers in ensuring that solutions were inclusive of vulnerable populations who often have difficulties obtaining documentation, with particularly emphasis on indigenous and Afro-Colombian populations, children, adolescents, youth, and women. This assistance took the form of communications campaigns, workshops to public service providers, community-level advocacy, and support to municipal governmental committees among others.

According to data from the Institute of Family Wellness (Instituto del Bienestar Familiar - ICBF), thanks to both direct and indirect assistance of the entities Plan supports, there have been 106 days of documentation and registration in the last five years across the entire country. These efforts allowed 507,378 persons to finally be able to realize their right to identity, either through birth certificates, identity cards, or nationality documentation. 64% of these persons were children, adolescents or young people.

Plan International

reports³¹. At the time of writing, 55 states had officially provided mid-term reports, 50 of which were related to the first UPR cycle.

5.2. Lessons learned: Recommending States

Recommending States (RS) have several responsibilities in the UPR process. They are to prepare for the UPR reviews of their peers, to pose questions, issue recommendations during the review in the Working Group and follow up on the recommendations. However, UN member states have varying capacities to undertake each of the listed responsibilities. Below are some of the helpful approaches that states have applied in their roles as Recommending states.

5.2.1. *Making recommendations*

Gathering information on the SuRs reviewed at each UPR session can be an overwhelming task. Recommending states indicate that there is no shortage of information, but, rather, of resources to manage the information available. Streamlining the process of writing recommendations can help reduce the time it takes to write recommendations. Firstly, one aspect that facilitates the process of writing recommendations is to ensure that the drafters have a thorough understanding of the UPR process. Norway, for example, has a human rights training programme that is held annually in Oslo, during which the UPR process is discussed. Norway's embassy representatives can attend the training to increase their understanding of human rights mechanisms. For officials who do not have the time or resources to attend UPR trainings, online sources and UPR webcasts can provide insight into the process.³²

In drafting recommendations, Recommending states may have to meet certain foreign policy priorities in regard to issues and regions on which they focus, tailoring the approach slightly for specific countries. Several months before the UPR, the Permanent mission in Geneva can send requests for recommendations to its embassies in the countries that are to be reviewed at the upcoming UPR session. Embassies, then, gather information on the countries with which they work, while the Permanent mission

³¹ For more information, see: <http://www.upr-info.org/en/news/89-states-commit-submitting-mid-term-report>

³² Resources for Recommending States can be found on the UPR Info website : <http://www.upr-info.org/en/how-to/recommending-state>; Live, as well as past webcasts, can be found here: <http://www.upr-info.org/en/webcasts>

in Geneva assists by sending documents such as the National Report, the UN Compilation, Stakeholder Summary and information from the *UPR Info* Pre-sessions³³.

**Meet with civil society to
gather information**

Meeting with civil society stakeholders, whether in Geneva or in the SuR, is a good opportunity to ask more precise questions on the human rights situation. For Permanent missions with limited resources, the *UPR Info* Pre-sessions are an especially effective way of gathering information on

the human rights situation in the SuR, while also providing the chance to meet with the civil society members.

Diplomatic considerations may prevent Recommending states from making certain recommendations, but it is important that recommendations are effective in triggering action in the SuR. One of the challenges mentioned by SuRs, as well as other stakeholders, was the fact that vague or general recommendations, as compared to specific recommendations, were difficult to implement. States indicated that they

Are you making SMART recommendations?

Specific	Address a specific right or violation.
Measurable	Make sure the recommendation can be assessed as to whether it is implemented or not.
Achievable	Consider whether the state has or can obtain the material capacity to comply with the recommendation. This should be defined only by material capacities, not by political will.
Relevant	Make sure that the proposed solution is adapted to the specific problem, with the aim to improve the human rights situation.
Time-bound	Indicate the time-frame in which the recommendation should be implemented.

³³ For more information on pre-sessions, see: <http://www.upr-info.org/en/upr-process/pre-sessions>

received recommendations so vague and complicated that the government was unable to understand how to implement the recommendations. Undoubtedly, such recommendations are ineffective for improving the human rights situation in the SuR. Furthermore, some SuRs indicated that they did not accept certain recommendations because they felt that the wording of the recommendations made them impossible to implement. Thus, when writing recommendations, it is best to focus on one issue and one action, as well as making sure that the recommendation is SMART: specific, measurable, achievable, relevant, and time-bound.

Furthermore, now that the UPR is in its second cycle, it is a good practice for the RS to compare the recommendations that it made to the SuRs or the recommendations that other states made regarding the Recommending state's areas of priority in the previous cycle. If the SuRs did not

Mention "as previously recommended"

implement the given recommendations, it is important to reiterate the recommendations, while adding the phrase "as previously recommended". For example, in 2014, Germany recommended to Nicaragua to "Revise legislation to decriminalise abortion in cases of pregnancy resulting from rape or incest and in cases where the life or health of the mother is at risk, *as recommended previously*."

5.2.2. Following up on recommendations

To ensure that recommendations are implemented, the RS should follow up on the recommendations and issues with the SuR during the 4.5-year implementation period. In fact, planning for the follow-up period can begin even before the review in the working group of the given SuR. In drafting the recommendation, for example, the RS can consult with its development agency to envision possible ways in which the RS can work with the SuR to implement the recommendation. During the review, the Recommending state can send representatives from its embassy located in the SuR to attend the review in the Working Group in Geneva. SuR delegations at the Working Group review in Geneva usually consist of the government officials who will be responsible for the implementation of recommendations. Meeting them in Geneva is a good opportunity to discuss ways in which the Recommending state can be of assistance in the implementation period.

Finally, the Recommending states can incorporate discussion of UPR recommendations into other bi-lateral meetings on human rights. Switzerland, for example, has incorporated the issues of its UPR recommendations into some annual

human rights dialogues and into other bilateral meetings (such as political consultations). Also, since 2014, a section on the UPR is included in the annual human rights reports of the Swiss Embassies.

5.3. Lessons learned – Civil Society Organisations

The UPR is not a perfect mechanism and opportunities for CSOs can always be improved, but engagement with the mechanism is versatile, allowing CSOs to quickly adapt their advocacy strategies to the ever-changing human rights situation. This is, perhaps, why more and more CSOs have taken advantage of the UPR process since its inception. The starting point to effectively engaging in the UPR is to identify a clear strategy for all phases of the process, especially the implementation phase. The sections below may help to provide ideas for important aspects to include in CSOs' UPR strategies.

5.3.1. *From the international to the national level*

While many organisations that provide information for the UPR continue their activities beyond the adoption of the report, some organisations tend to forget about the important role that civil society organisations play in the implementation period. Although it is the primary responsibility of the SuR government to implement the recommendations that it received, CSOs should monitor the government's implementation plans and activities and, when possible, collaborate with the government in implementing the recommendations. An action plan can be especially helpful for CSOs to make full use of the opportunities offered by the UPR.

In order to create an action plan, CSOs should first identify the recommendations that are related to their issues of priority, the states who made the recommendations, and the responses of the state under review³⁴. Secondly, CSOs can make a document detailing their expectations for implementation, such as the actions that the government should take toward implementation, the responsible government ministries or departments, and the timeframe for action. Kenyan civil society stakeholders, for example, developed an extensive document that outlined how the recommendations received by the Kenyan government should be implemented³⁵. With the help of this

³⁴ This information is conveniently organised in UPR Info's Responses to Recommendations (2RPs): <http://s.upr-info.org/docsby2rps>

³⁵ See, for example, "From commitments to actions: the stakeholder's outcomes charter on the UPR of Kenya" <http://s.upr-info.org/kenyacharter>

information, CSOs can also develop a strategy on the monitoring and lobbying of the expected outcomes. *The Working Group on Human Rights in India and the UN* (WGHR) also developed a table that incorporated information regarding the UPR recommendations, possible actions on the recommendations, indicators that could help in monitoring the implementation, and the government department or ministry responsible for the implementation. In addition, WGHR's document includes a column that indicates the type of measures that have been taken by the state. Such a column is especially helpful because it allows the CSOs to easily keep track of the progress made and can be constantly updated in light of new developments.

The progress (or lack thereof) on the implementation of recommendations should be outlined in a mid-term report, 2.5 years after the review in order to provide an update at the national and international levels. A mid-term report is also an opportunity to reflect and re-evaluate the CSO's activities and further strategy, making sure that the CSO and its partners are on the same page. In addition to being published on the website of the CSO, the report can be published on *UPR Info's* Follow-up webpage. It is also a good practice to make a statement announcing the report at the Human Rights Council under General Debate Item 6.

5.3.2. *Building coalitions*

Coalitions are not only an effective way to bring national issues to the international level, but to also bring the international obligations to the national level. Forming national human rights coalitions is a great way to share resources and knowledge that can ease the costs of UPR engagement. Resource-sharing throughout the UPR process can improve the quality of the CSOs' engagement – from the submission, to more effective lobbying and national awareness-raising activities. Furthermore, coalitions are more reflective of the universality of the UPR because they are able to include information on a broader range of human rights issues. Coalitions can be formal, in that they are registered and receive money for their specific coalition activities or they may be informal, in that each coalition member contributes some time and expertise for the benefit of the entire group. Working in coalitions allows civil society organisations to have a stronger voice at the national and international levels.

When CSOs come together to form a coalition, it is an indicator that the issues addressed are not only the opinion of one person or one organisation, but of many human rights defenders. The consensus shown by coalition members is an indicator to the national and international audiences that the issues are serious enough to warrant the creation of an entire coalition. Furthermore, at the national level, a coalition of

CSOs represents a heavier electoral weight which means that they can often access senior representatives of the government. In general, during the implementation phase, the legitimacy and the collective time, contacts, and expertise of coalition members allows the coalition to reach more people in its awareness-raising and lobbying activities.

5.3.3. *Interacting with the government*

Throughout the implementation period, CSOs should work with the government to implement recommendations (when possible) as well as to keep the pressure on the government by constantly reminding officials of their obligations, raising awareness among the population of the governments' promises and working with Recommending states, as well as international partners to ensure implementation.

CSOs that have worked on the follow-up to the UPR recommendations suggest that from their experience, it is important to consistently apply pressure on the SuR. From the moment that the review ends, CSOs should begin dialogue with the government regarding the UPR recommendations: how the government plans to implement them, who will be responsible, if the government will write an action plan, etc. The *World Coalition Against the Death Penalty*, for example, sends letters to thank the SuRs after the adoption of the report in the Plenary in order to continue the dialogue regarding the recommendations accepted. From their extensive experience of lobbying states on the contentious issue of the death penalty, *World Coalition* suggests to begin the interaction early, right after the Review in Geneva, while the same government officials are in office and before they forget about their commitments. Maintaining a regular dialogue with the government can also help in facilitating the task of monitoring the progress made on the recommendations.

Other tactics that have worked for maintaining pressure on the government and to ensure effective implementation is to engage with different parts of the government. Although there may be one ministry in charge of the coordination of the UPR-related work, many ministries can be responsible for the implementation. Furthermore, parliamentarians, regional and local governments, as well as those who are in opposition to the government, should also be involved in the implementation, but that is often not the case. CSOs can try to engage these parts of their government in order to increase awareness of the UPR and gain partners.

Depending on the government structure in the particular SuR, organisations can take advantage of the domestic political climate in order to increase visibility of their priority issues. Some organisations mentioned, for example, that aligning their advocacy activities with election cycles proved to be a successful strategy.

5.3.4. Popularising the UPR

One of the ways to ensure that the UPR commitments that the SuR has undertaken during the UPR are not forgotten over the 4.5-year period until the next UPR is to raise awareness about the review. Some CSOs have expressed that they find the UPR to be difficult to discuss at the national level because the UPR can feel foreign and far away to somebody who is unfamiliar with the UN system. For this purpose, organisations have created publications and flyers that attempt to give simple explanations of the UPR³⁶. At the same time, other organisations have indicated that they focus on the concrete human rights issues and the promises made by their government to avoid complicating the matter. Information about the UPR can be conveyed through press releases, publications, radio shows, and televised or live debates, as well as by hosting a screening of the webcast of the review in the Working Group. It is also important to translate the information into local languages and to reach out to different regions of the country. In Tajikistan and Nepal, for example, the CSOs organised meetings to present UPR-related information not only to local populations and civil society, but also, to the local governments.

Other effective ways to raise awareness about the UPR recommendations, UPR-related action plans or progress on implementation can be through illustrating the UPR on a website or linking the UPR to other national events. For example, in 2014, *Impact Iran* created an interactive website in English and Persian that provides information about the recommendations made to Iran and what has or has not been achieved since the UPR³⁷. Another organisation, Save the Children, found it effective to link their UPR-related advocacy around the UPR to the national Child Rights Day in Nepal in order to gain media attention³⁸.

³⁶ See, for example, "A Plain English Guide to the UPR" *Irish Council for Civil Liberties* and *UPR Info*: (2011) <http://s.upr-info.org/plainglishguide>

³⁷ *Impact Iran's* website on the Iran's UPR: <http://upriran.org/>

³⁸ For more examples, see "UPR: Successful examples of child rights advocacy" *Save the Children*, (May 2014): http://s.upr-info.org/save_upr_success

5.3.5. *Lobbying Recommending states*

One of the advantages of the UPR is the fact that it is a peer-review, meaning that states make recommendations to each other. While this may mean that diplomatic considerations sometimes prevent Recommending states from making certain types of recommendations, working with Recommending states is also an opportunity to put more pressure on the SuR. As several UPR stakeholders have indicated, some SuRs seem to feel more pressure in regard to the UPR than to other human rights mechanisms because the human rights situation is being reviewed by the entire international community of UN member states. While some civil society organisations have had great successes in lobbying Recommending states, conversations with CSOs from all over the world and with Recommending states indicate that civil society organisations are still not using this aspect of the UPR to its fullest potential. It is frequent to discover that CSOs that submitted an NGO report for the UPR do not have a strategy to make sure that their report will make an impact.

Many organisations have taken the opportunity to lobby Recommending states before the review of the SuR in Geneva in order to ensure that the Recommending states are knowledgeable about the human rights situation in the country and that they “pick up” the recommendations suggested by the civil society organisations. Recommending states will often even use recommendations suggested by CSOs word-for-word. Geneva is a great place to meet with many Permanent missions at the same time and there are many international NGOs who can help national CSOs in this respect.

However, CSOs do not have to travel to Geneva to lobby Recommending states. Embassies located in the SuR or in the region are often active in providing information to their capital and Permanent mission in Geneva or are even charged with drafting the recommendations. Furthermore, CSOs should not forget about the Recommending states in the follow-up period.

Ideally, Recommending states should follow up on their recommendations during the implementation period to ensure that they are being implemented by the SuR. Some states are very active in this regard, working through their embassies and development agencies. However, CSOs should not wait for Recommending states to make the first move. Instead, CSOs can invite the Recommending states to informational meetings, provide them with updates on the human rights situation and on the implementation of recommendations, as well as seek the financial and technical assistance of the

Recommending state to work, in collaboration with the SuR, on implementation of the Recommending state's recommendations.

5.3.6. *Identifying friendly Recommending states*

Some organisations already have good working relationships with Recommending states and have a good understanding of which issues are important to those states. For those CSOs that are unsure or are looking to expand their network, one approach to widening the search for potential partners is by first, identifying the issues of priority to the CSO and, then, checking which Recommending states made recommendations on those human rights issues to the particular SuR in question³⁹.

Friends of the Protocol

The *World Coalition Against the Death Penalty* has created a group called “Friends of the Protocol”, which consists of member states that are in favour of the abolition of the death penalty and ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights. The *World Coalition* maintains a separate newsletter for the Friends of the Protocol, sending information about countries that have not ratified the OP2-ICCPR and ideas for how to engage on the issue with those countries, such as at their upcoming UPRs. *World Coalition* also works with local partners that lobby the SuRs on the ground.

5.3.7. *Sensitive issues*

The UPR is a great tool for CSOs, but activists can face several obstacles, such as when the Recommending states do not “pick up” recommendations on CSOs’ areas of concern, give vague recommendations, or when the SuRs “note” recommendations

³⁹ The UPR Info Database can be used to conduct searches of UPR recommendations according to the issue, the State under Review, Recommending State, and much more:
<http://www.upr-info.org/database/>

rather than accept them. Organisations working on the UPR have found several tactics for dealing with such situations.

Firstly, if a CSO is working on recommendations that may be controversial, one suggestion is to lobby for an “end goal” recommendation, but also, several “step-by-step” recommendations. For example, the *World Coalition Against the Death Penalty* asks Recommending states to give recommendations “to abolish the death penalty”, but knowing that this type of recommendation may be too controversial for the SuR to accept, *World Coalition* also asks Recommending states to give recommendations that are concrete steps towards abolition, such as establishing a moratorium on the death penalty.

If recommendations that the CSO had suggested are not accepted by the SuR, the CSO should look at the arguments for the SuR’s response in order to adapt its lobbying strategy in accordance to those arguments. Furthermore, it is important to continue to monitor and lobby for the implementation of those recommendations because even if the recommendations are not accepted, they may still be implemented. As mentioned previously, 5 percent of noted recommendations are fully implemented by the mid-term and 14 percent are partially implemented, meaning that 19 percent of noted recommendations trigger action by mid-term. A recommendation that is not accepted by the state remains a tool of interest for all stakeholders.

In the case that recommendations regarding the CSOs’ areas of concerns are not reflected in the recommendations made by Recommending states, it is still possible to engage with the UPR process on these issues. For example, even though French-speaking minorities were not specifically mentioned during Belgium’s first UPR, the *Association pour la promotion de la Francophonie en Flandres* (APFF) has used related recommendations on minorities to continue to lobby for the rights of French-speakers, such as the ratification of the European Charter for Regional or Minority Languages and the Council of Europe Framework Convention for the Protection of National Minorities. In addition, APFF uses recommendations that are un-related to minorities such as recommendations to create a national human rights institution or to collaborate with the civil society in the follow-up to the UPR, in order to ensure that French-speaking minorities’ rights will be included in the general domestic discussion. Finally, APFF lobbies Recommending states that mentioned the recommendations on which the organisation has chosen to focus, but also Recommending states that are interested in minority rights more generally or have issued minority-related recommendations to Belgium in other international or regional forums.

5.3.8. *Using the UPR as a complimentary mechanism*

The UPR is a great tool for advancing human rights but it is not a panacea. In fact, the UPR was created to fulfil the universality gap in the UN human rights system and, thus, act as a complimentary mechanism. The advantage of the UPR, as expressed by many organisations working on UN human rights advocacy, is the fact that the UPR is a political mechanism that covers many issues and in which every state is reviewed. States who care about their international image take the UPR seriously because they are under the scrutiny of the entire body of UN member states. In addition, while the UPR system is voluntary in nature, all UN member states participate. Furthermore, when receiving recommendations, the SuR is encouraged to give a clear response to the recommendations – whether accepted or noted. Finally, the periodicity of the UPR helps plan activities on a short-term and long-term basis.

Treaty bodies or special procedures, in comparison, do not scrutinise all UN member states, do not occur on a periodic basis for most countries, nor do they require the state to “accept” the recommendations given by the experts. At the same time, treaty-bodies and special procedures do have the advantage of being composed of experts who examine specific issues in great detail. In the UPR process, however, despite the great lengths to which Recommending states may prepare for the reviews, they are often limited in the kind of recommendations that they can give due to diplomatic concerns. At the same time, with 194 Recommending states, it is sure that the limits of some states are not the same as of others. The conclusion to this short comparison is that the UPR truly is a mechanism that should be used in complement to other UN human rights mechanisms. Incorporating UPR-related lobbying activities into the same strategy as lobbying activities for other mechanisms can increase the impact of the overall approach.

Organisations working on many countries or issues have put the UPR at the centre of their advocacy strategies because the periodicity of the mechanism allows them to work on all of their countries and issues of priority in an orderly fashion. The organisations can easily structure their approach according to the UPR schedule, engage with the UPR on any of their priority issues for the particular countries, and pursue the issues further in the various treaty-bodies or special procedures. Thus, the UPR can be an entry-point with several possible exits.

5.4. Lessons learned – National Human Rights Institutions

The role of National Human Rights Institutions (NHRIs) is unique in the UPR process, as they can have a powerful impact on the human rights progress of the country. NHRIs can serve as a bridge between the many national actors involved in the UPR, especially civil society and the government. The NHRI may also have more weight at the national and international levels than civil society organisations, so it is important for the NHRI to be especially active on issues of priority in the country. Many of the same activities in which CSOs engage can be adopted by the NHRI, with certain considerations for its status as an NHRI.

5.4.1. *Before the UPR*

Although the government is encouraged to organise consultations with many different actors and in various regions of the country one year prior to the UPR, it is not always the case for reasons such as a lack of resources or political will. In addition, the NHRI may want to have greater say in the manner in which the national consultations are organised. The NHRI can, therefore, organise the national consultations to ensure that all actors are participating collaboratively in the UPR process. The NHRI may also partner with the government or with the civil society organisations to organise the consultations.

Furthermore, NHRIs should not forget to lobby the Recommending states. In Australia, for example, the Australian Human Rights Commission (AHRC), in collaboration with civil society, held briefings for representatives of various embassies, to which the Australian government was also invited. According to the AHRC, many of the recommendations made to Australia reflected the issues outlined in the briefing materials.

Similarly, the Equality and Human Rights Commission (EHRC) of the United Kingdom held briefings in London with embassy representatives. The EHRC also travelled to Geneva in advance of the UPR of the UK to host a side event at the Human Rights Council and meet with Permanent representatives of Recommending states. The EHRC found the lobbying activities to be fruitful because many of their recommendations were reflected in the statements of the Recommending states. As

mentioned by the EHRC, the fact that the institution is an NHRI probably added to its potential to influence the Recommending states.

5.4.2. Influencing acceptance of recommendations

Many SuRs do not respond immediately to all UPR recommendations received, taking the 3-4 months between the review in the Working Group and the report adoption in the Plenary Session of the Human Rights Council in order to consult in the capital and make a thought-through decision. At this point, NHRIs can meet with the government to discuss the acceptance of recommendations. The AHRC, for example, met with the government during this period, which may have influenced the government to accept more recommendations than it originally intended. NHRIs can provide important arguments for why certain recommendations should be accepted, as well as ideas for implementing the recommendations, thus convincing their governments that the task is not overwhelming. This is an important opportunity not only for NHRIs, but for all actors to propose solutions for implementing received recommendations and to use the principle of cooperation to the fullest extent. If one can show the government how to implement a recommendation, half of the work is already done.

5.4.3. After the adoption of the report

Immediately after the UPR, it is a crucial period for all actors because the UPR is still “fresh”. NHRIs should not wait until the mid-term period to act. It is important to raise awareness about the UPR and its outcomes among civil society, government, and the general public. In Australia, the AHRC met with parliamentarians and regional human rights commissions to discuss the outcomes of the UPR. In Tajikistan, the Ombudsman, along with the government and CSOs, participated in meetings in different parts of the country in order to present and discuss the UPR outcomes with local governments and civil society.

Furthermore, the NHRI should, ideally, work with the government to ensure that an action plan on the implementation of recommendations is created. In the absence of an action plan, it is important for the NHRI to maintain regular contact with the government to know about the envisioned implementation plans and the offices responsible for those plans.

Finally, a mid-term report on the government’s implementation of UPR recommendations helps to monitor progress, re-evaluate the human rights situation,

and raise awareness on the UPR commitments. Some NHRIs have also incorporated regular updates about implementation of UPR recommendations into their annual reporting. NHRIs, like civil society, can publicise such reports by making a statement under Item 6 of the General Debate at the Human Rights Council, as well as through their websites, social media, press releases, etc. Mid-term or annual reporting is also an opportunity to continue the dialogue with the government and civil society. In Mongolia, for example, civil society and the NHRI wrote separate mid-term reports, but, afterward, co-organised consultations with the Ministry of Foreign Affairs in order to discuss the progress made and further steps for implementation.

Throughout the implementation period, the NHRI should monitor and report on the progress; assist the government, if possible, in the implementation; and maintain pressure on the government to implement the UPR recommendations.

5.5. Lessons learned – United Nations entities

United Nations agencies and offices, especially the Office of the High Commissioner for Human Rights (OHCHR), can greatly contribute to the success of the UPR at the national level. Where OHCHR has been active, it has facilitated collaboration on the UPR and the implementation of recommendations between the many national and international stakeholders. OHCHR staff and those working with them at the local level have indicated that OHCHR's role is especially important for raising awareness about the UPR and helping national stakeholders to prepare for the review. OHCHR branches in different countries have worked with governments to help write the national reports, but have also been successful in influencing the government to consult with civil society. In addition, the assistance of OHCHR in creating a national action plan or even simple matrixes to help plan implementation have had concrete results, even in cases where the government chose not to use the exact model suggested by OHCHR.

While the SuRs are the bodies responsible for implementing their human rights commitments, UN agencies can help the government to implement some of the most complex recommendations through their invaluable expertise and experiences in the domains on which they work. As illustrated by examples provided in chapter 4, UN agencies have already helped to implement many UPR recommendations. The Resident Coordinator, as the UN Country Team leader, has an important role to play in coordinating these agencies and ensuring that the focus in the implementation process is not only on the legal aspects but also on practical programmes.

UNDP, as the main agency behind the Resident Coordinator, has been engaging in the UPR process at all stages: preparation, review, and follow-up. It has notably supported

national consultations and trainings on the UPR process, as well as travels to Geneva to participate in *UPR Info*'s pre-sessions and to attend UPR reviews. In the follow-up, UNDP has been working to include UPR recommendations in the UN Development Assistance Frameworks that are developed every 4-5 years with the governments of the countries in which UNDP works.

In Benin, on 19 December 2012, UNDP financed the organisation of a televised debate on the UPR and the recommendations received by the government during their second review on 25 October 2012. In Moldova, a UNDP consultant was integrated in the Ministry of Health to support the government's efforts to implement recommendations. In Mozambique, UNDP organised a follow-up session with the government and the civil society platform to present the outcome of the review and discuss the way forward. The UPR recommendations were then included in the UN Development Assistance Framework 2012-2015.

Unfortunately, a central UN strategy related to the UPR seems yet to be established. Adequate financial resources or staff, and external or internal political limitations have constrained UN entities' activities, including those of OHCHR and UNDP. Increased support to UN entities for the purpose of re-enforcing UPR activities could result in even greater human rights progress on the ground.

6. Conclusion

The data presented in the study is very encouraging for the future of the Universal Periodic Review and, more importantly, for the future of human rights. Already, 48 percent of UPR recommendations trigger action by mid-term, which leads us to believe that the UPR has the most promising potential to improve human rights everywhere, for everyone. The UPR process provides the necessary framework to effect human rights progress and it is clear that participation from decision makers and human rights defenders is increasing. In fact, the UPR has created a new dynamic between states and civil society and many of the success stories of the UPR come from collaboration among national actors. The examples provided in the study only barely graze the surface of the creativity deployed by stakeholders to make use of the UPR.

At the same time, while the UPR has thus far proven to be a cooperative mechanism, its Achilles heel lies in the will of the states to participate in the mechanism and to implement the recommendations. Lacklustre participation and, worse, persistent non-cooperation weaken the potential of this mechanism. Resolution 5/1 of the Human Rights Council states: “After exhausting all efforts to encourage a State to cooperate with the universal periodic review mechanism, the Council will address, as appropriate, cases of persistent non-cooperation with the mechanism.” When states under review do not implement recommendations, Recommending states can reiterate those recommendations in the following reviews, but how many cycles must pass before real action is taken to ensure that the state is promoting and protecting the human rights of its own citizens?

Civil society organisations are recognised as official actors in the UPR. They not only help to ensure implementation of UPR recommendations, but also contribute to the effectiveness and sustainability of the implementation. Yet, civil society actors do not receive the necessary support; while a fund for implementation exists for states, no such fund is available for civil society. In some exceptional cases, Recommending

states have followed through with a genuine commitment to human rights by providing technical and financial support to encourage implementation of their recommendations, with the help of CSOs. But a more coordinated effort to empower national stakeholders is needed at the international level.

Through engagement with the UPR, even more human rights progress is possible, but whereas civil society organisations have the will, they do not have the resources. And whereas states have the resources, they do not always have the will. The UPR must bridge the will and the resources – the success of the mechanism depends on it.

7. Methodology

Aiming at keeping the universality of the UPR, *UPR Info* carefully followed the basic principles of universality, equal treatment, and an integrative approach. Notably, every stakeholder was invited to participate in the Follow-up Programme.

7.1. Contacting every stakeholder

In order to assess 165 countries, *UPR Info* applied the same procedure for data collection for all states:

1. *UPR Info* contacted the Permanent Mission to the UN in Geneva (if one existed) or in New York (if relevant);
2. *UPR Info* contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was contacted individually;
3. The National Institution for Human Rights was contacted (if one existed).
4. UN agencies which took part in the review were contacted.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted.

7.2. Implementation of the Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the state for the recommendations received at the UPR.

The **Implementation of the Recommendation Index** (IRI) is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claimed nothing had been implemented at all, the index score was 0. On the other hand, whenever a stakeholder claimed that a recommendation had been fully implemented, the *IRI* score was 1.

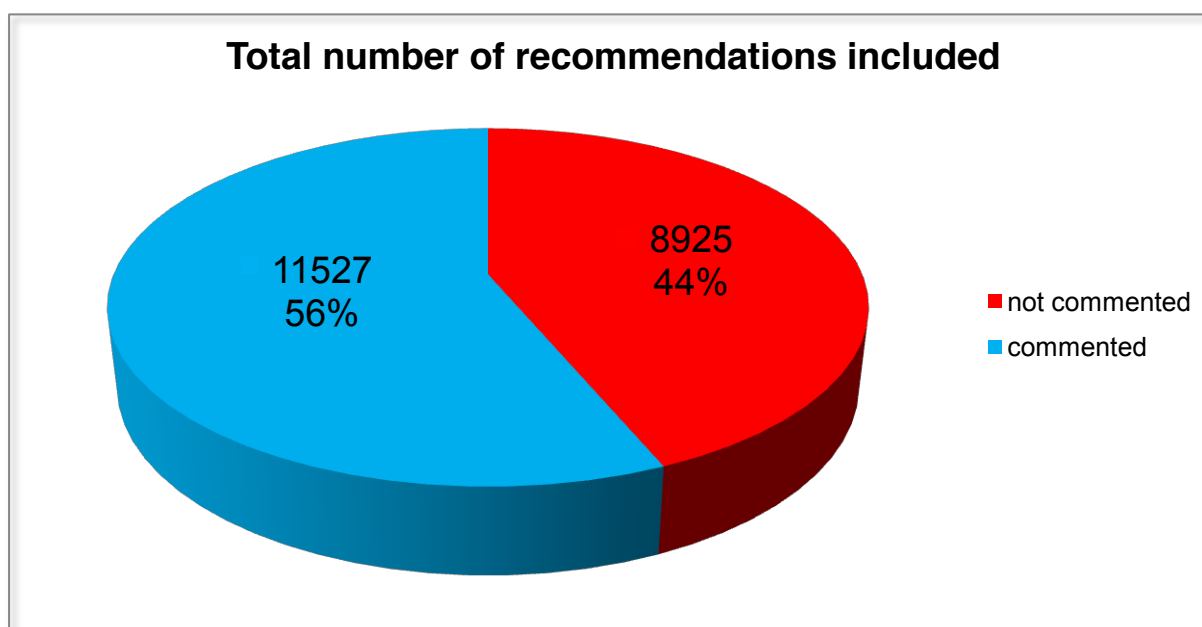
An average was calculated to fully reflect the many sources of information. If the state under review claimed that the recommendation had been fully implemented, and a stakeholder said it had been partially implemented, the score was 0.75.

Then the score was transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

7.3. Data

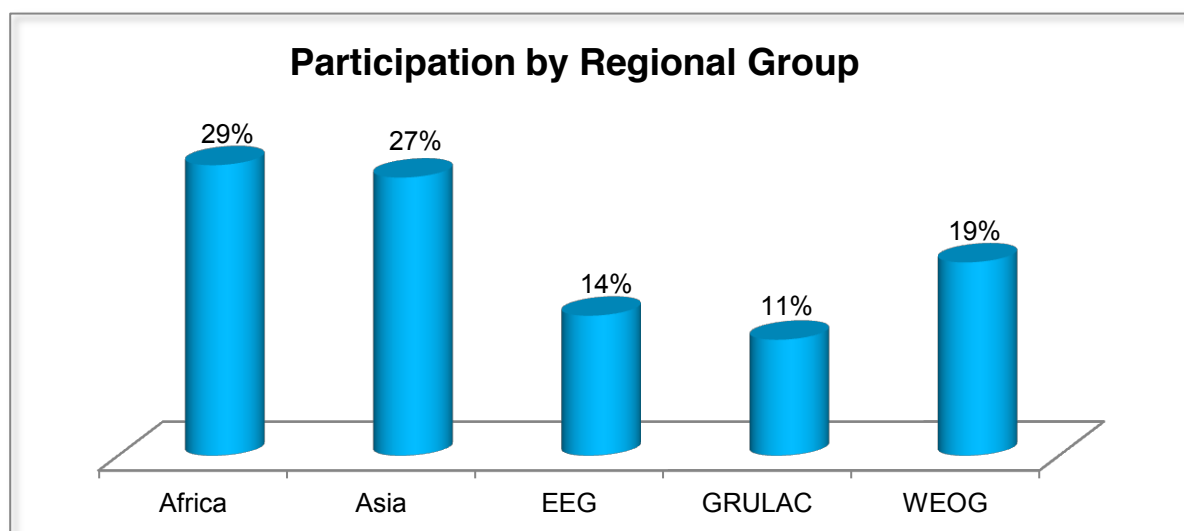
Almost 56 percent of all recommendations made during sessions 2 to 12 were covered by the Follow-up programme. *UPR Info* received comments on 11,527 recommendations out of 20,452 made to the 165 countries assessed.



The list of 165 countries is as follows:

Afghanistan, Albania, Andorra, Angola, Antigua and Barbuda (UK), Armenia, Australia, Austria, Azerbaijan, **Bahamas**, Bangladesh, Barbados, Belarus, Belgium, Belize, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brunei, Bulgaria, Burkina Faso, Burundi, **Cambodia**, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, **Democratic Republic of the Congo**, Denmark, Djibouti, Dominica, Dominican Republic, DPR Korea, **Egypt**, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, **Fiji**, France, **Gambia**, Georgia, Germany, Greece, Grenada, Guinea, Guinea-Bissau, Guyana, **Haiti**, Honduras, Hungary, **Iceland**, Iran, Iraq, Ireland, Israel, Italy, **Jamaica**, Jordan, **Kazakhstan**, Kenya, Kiribati, Kuwait, Kyrgyzstan, **Laos**, Latvia, Lebanon, Lesotho, Liberia, Libya, Liechtenstein, Lithuania, Luxembourg, **Macedonia**, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia, Moldova, Monaco, Mongolia, Montenegro, Mozambique, Myanmar, **Namibia**, Nauru, Nepal, New Zealand, Nicaragua, Niger, Nigeria, Norway, **Oman**, **Palau**, Panama, Papua New Guinea, Paraguay, Portugal, **Qatar**, **Romania**, Russian Federation, Rwanda, **Saint Kitts and Nevis**, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Sudan, Spain, Sudan, Suriname, Swaziland, Sweden, Syria, **Tajikistan**, Tanzania, Thailand, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Turkey, Turkmenistan, Tuvalu, **Uganda**, United Arab Emirates, United States of America, Uruguay, Uzbekistan, **Vanuatu**, Venezuela, Viet Nam, **Yemen**, and **Zimbabwe**.

If we cluster these countries by regional groups, we obtain this figure:



7.4. Action categories of UPR Info

The ranks are established according to following criteria:

Rank 1 Recommendation directed at non-SuR, or calling upon the SuR to request technical assistance, or share information (Example of verbs: call on, seek, share).

Rank 2 Recommendation emphasizing continuity (Example of verbs: continue, maintain, persevere, pursue).

Rank 3 Recommendation to consider change (Example of verbs: analyse, consider, envisage envision, explore, reflect upon, revise, review, study).

Rank 4 Recommendation of action that contains a general element (Example of verbs: accelerate, address, encourage, engage with, ensure, guarantee, intensify, promote, speed up, strengthen, take action, take measures or steps towards).

Rank 5 Recommendation of specific action (Example of verbs: conduct, develop, eliminate, establish, investigate, undertake as well as legal verbs: abolish, accede, adopt, amend. implement, enforce, ratify).

Principles

When there is a perfectly even rationale for two different actions in a recommendation, emphasis is generally placed on the first action.

When a recommendation starts with two verbs, the second one is privileged. Ex: "Continue and strengthen..." -> category 4.

When a recommendation starts with a general action but then provide examples of specific actions, it is considered as category 5. Ex: "Improve women's rights by amending the family code".

7.5. List of abbreviations and acronyms

CAT Convention against Torture, Cruel, Inhuman and Other Degrading Treatment

CEDAW Convention on the Elimination of All Forms of Discrimination against Women

CRC Convention on the Rights of the Child

CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organisation
HRC	Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
ILO	International Labour Organisation
MIA	Mid-term Implementation Assessment
NGO	Non-governmental organisation
NHRI	National Human Rights Institution
OHCHR	Office of the High Commissioner for Human Rights
RS	Recommending state
SuR	State under review
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crimes
UPR	Universal Periodic Review

