

# POLICY BRIEF:

## Opportunities for engagement by health-rights advocates in the Universal Periodic Review (UPR) Process



# Opportunities for Engagement by Health-Rights Advocates in the Universal Periodic Review (UPR) Process

**T**he Universal Periodic Review (UPR) of the UN Human Rights Council provides a unique forum for member States to provide recommendations to their peer States on all aspects of human rights, including the right to health. This brief provides an overview of the key characteristics of the UPR, and the ways in which health-rights advocates can engage in this process in support of the health-related goals of the Sustainable Development Goals and international human rights law.

## Universal

Unlike other international human rights mechanisms, **the UPR involves all UN Member States and may cover all aspects of human rights** rather than being limited to a single treaty, topic, or theme.

## Country and global dialogue

The UPR operates at both country level, offering a forum for dialogue between state and non-state partners to review progress towards the achievement of certain human rights, but also at global level, drawing attention to key human rights issues.

## Political engagement

The UPR engages Ministries of Justice and Foreign Affairs in particular, but the scope of issues addressed requires input and action by many sectors of government. The **multisectoral** nature of the reviews demonstrates the potential for engagement by Ministries of Health and national and international health-rights advocates to flag concerns, but also to highlight achievements and identify specific technical assistance needs.

## Normative and technical assistance

The UPR provides a key opportunity to strengthen the support offered to member states to fully implement and follow up on recommendations

made under the UPR. Agencies such as WHO can support member states in this regard, through **technical assistance, capacity building and evidence-based normative guidance** on key areas of health and rights addressed under the UPR.

## Health as a Human Right in the UPR Process

From 2015 to 2019, WHO partnered with the Human Rights Centre Clinic of the University of Essex to conduct the first comprehensive review of the inclusion of health rights among all UN member States in the first cycle of the UPR (2006-2012) followed by a more selective review of the second cycle (2012-2016).<sup>1</sup> The full results of the study are available in the WHO publication *Advancing the right to health through the Universal Periodic Review* (2019).

The study found that **health-related issues consistently and prominently feature in the recommendations** made to States-under-Review in the UPR process. In the first cycle, 22% of all recommendations were health related; this increased in the second cycle to 26%.

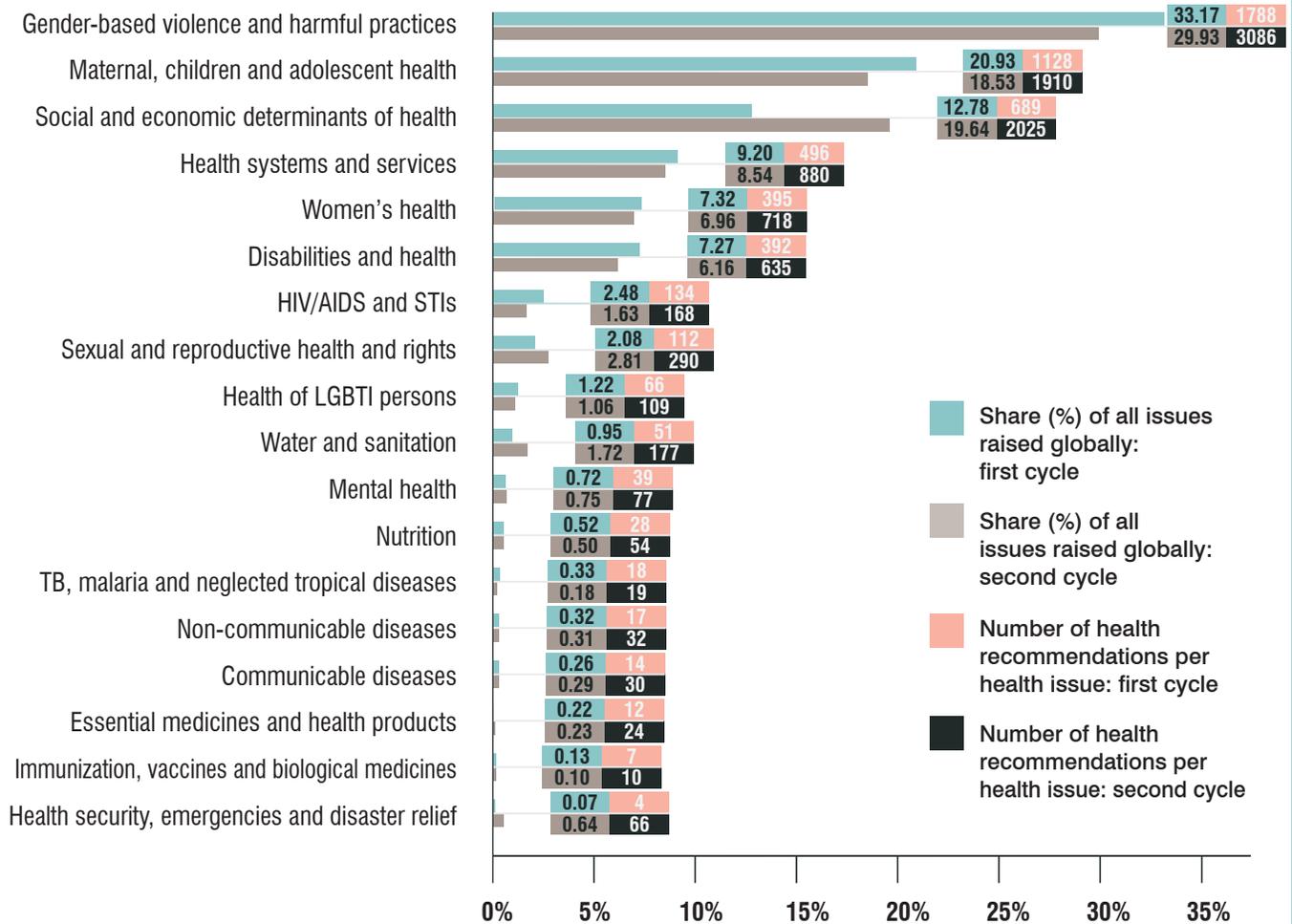
The WHO-Essex study data clearly demonstrate that States are extensively and explicitly including health-related issues in their recommendations as part of the UPR and are demanding action and accountability from other States for their obligations to respect, protect, and promote health.

## Insights and opportunities

This brief **discusses several major insights that emerged from the above study and identifies corresponding opportunities for greater engagement** by global, regional, national, and local actors in the current third cycle of the UPR process and beyond. The brief identifies key opportunities for engagement with high-priority global health issues in the UPR process by a number of sectors, including international

<sup>1</sup> Concentrated primarily on a geographically and socioeconomically diverse subset of eight countries: Cambodia, Chile, Jamaica, Lebanon, Malawi, Moldova, Mozambique, and Nepal.

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



The WHO- Essex study analysed all health-related recommendations made to countries in the first two cycles of the UPR and coded their content into 18 health categories. Detailed findings are available in the WHO publication *Advancing the right to health through the Universal Periodic Review*.

institutions such as WHO; by member States, especially those serving on the Human Rights Council; and by civil society actors, including NGOs, think tanks, and grassroots organisations. (Below, these sectors are collectively referred to as "health-rights advocates" or simply "advocates.")

*1. A relatively narrow scope of health topics are currently addressed in the UPR. Health-rights advocates can use their expertise and influence to increase attention to neglected areas.*

A number of potentially critical health and human rights issues are routinely left out of UPR dialogues. For example, in the first cycle, less

than 1% of all health-related recommendations addressed water and sanitation; mental health; nutrition; TB and malaria; other non-communicable and communicable diseases; essential medicines; immunization; or emergency relief efforts.

In the context of a global process including all 192 UN Member States, it is also noteworthy that many important health categories received only a tiny number of recommendations in absolute terms. For example, out of 8,356 recommendations made on all health topics throughout the second UPR cycle, only 10 raised the issue of the vaccines, 19 mentioned TB and malaria, and just 24 presented concerns about essential medicines.

Many of these health issues are of great salience in particular countries and of special relevance to the specific mission and goals of a range of health-rights advocates. Possible reasons for their under-representation from the UPR process are discussed below.

*2. The UPR Process recognizes that health-related rights are a core objective of the international human rights system. Health-rights advocates can play an important role in framing a broader array of health issues as having direct implications for human rights.*

Across both the first and second cycles of the UPR, the same three categories accounted for more than two-thirds of all health-related recommendations.<sup>2</sup> These are: (1) gender-based violence; (2) maternal, child, and adolescent health; and (3) social and economic determinants of health.

These three issues unquestionably represent important areas of health and would be expected to be prominent in the UPR process. Their frequency may also partly be an artefact of the ways in which some categories are defined broadly while others are comparatively narrow. Another important factor, however, seems likely to be that some health issues are more widely understood and debated as prominent parts of existing human rights discourse and practice, while others have continued to be viewed as more “technical” issues.

Moving forward, health-rights advocates can have an important role to play in the UPR process by **framing a broader array of health issues as having direct implications for human rights**. The International Covenant of Economic, Social, and Cultural Rights (ICESCR) in Article 12 specifies a right to “the enjoyment of the highest attainable standard of physical and mental health.” This right has been established to include not only access to quality health care, but also to address a wide variety of underlying determinants of health. A large literature is already extant about how these determinants are indivisible from, and interrelated with, a range of other economic and social rights, such as the rights to adequate housing, effective education, and equitable working conditions.

Health-rights advocates can help to ensure inclusion of a broader range of health issues by bringing to bear this literature, as well as by applying their own experience and expertise. Specific opportunities for influence by health-rights advocates in the UPR process are identified in the next section.

*3. The UPR is a wide-ranging and inclusive process with regard to health rights. There are several opportunities during the process at which health-rights advocates can highlight health priorities and offer human-rights framing.*

Each State under Review is encouraged to submit a national report, which is to be informed by a “*broad consultation process at the national level with all relevant stakeholders*” at least one year prior to the UPR review. National human rights institutions, civil society organisations, and grassroots groups may submit written comments, which will then be compiled into a Stakeholder Summary by the UN Office of the High Commissioner for Human Rights (OHCHR). Study data indicate a clear correlation between the attention devoted to a particular health issue in these background documents and the inclusion of those health topics in the subsequent recommendations.

The UPR national consultations provide a valuable opportunity for genuinely bidirectional and collaborative involvement by a range of health-rights advocates. In one direction, such advocates can bring crucial health issues to the attention of stakeholders that might otherwise be overlooked or neglected, and can highlight their salience in terms of the protection of human rights. In the other direction, stakeholders within each country can call upon the knowledge and expertise of advocates to help them establish the empirical basis for inclusion of various health issues and to assist with establishing their relevance within a rigorous human rights framework.

Health-rights advocates may similarly also be able to bring key issues to the attention of the government ministries tasked with preparing the country reports in national capitals, and also to provide briefings and other support to the country

<sup>2</sup> 66.88% in the first cycle vs. 69.99% in the second cycle.

delegations in Geneva. Advocates may also have access to human rights institutions, such as treaty-monitoring bodies and UN Special Procedures, whose country-specific findings are consulted during the UPR process. Further, both in Geneva and in national capitals, advocates can engage with governments as they are formulating their UPR recommendations to States under Review.

*4. Acceptance of UPR recommendations by States does not ensure their effective implementation. Health-rights advocates can assist States in implementing recommendations and also holding them accountable for appropriate follow-up for their obligations relating to health rights.*

States have the option to either "accept" or to merely "note" all UPR recommendations made to them; acceptance of a recommendation entails a particular responsibility to pursue its implementation. The WHO-Essex study of a subsample of eight countries found that, after two years, they had "partially implemented" nearly half (46%) of all the health-related recommendations that they had accepted; however, a comparable number (39%) of health-related recommendations had not been implemented at all.

There are a number of reasons that effective implementation may lag, including a lack of political will by governing officials, a low prioritization of certain issues by some States, the avoidance of topics that may be considered politically sensitive, or simply insufficient resources or expertise. In some cases, recommendations may have been phrased in terms so broad and general that their implementation would be difficult to full achieve, or even to measure.

Given their specialized knowledge of and interest in health issues, **health-rights advocates are well-positioned to assist at several points in the implementation process.** They can provide targeted technical assistance and help to focus attention in areas in which governments and/or stakeholders identify a lack of capacity to reach goals set by UPR recommendations. Health-rights advocates with international experience can draw upon existing best practices in other countries to demonstrate how UPR recommendations can be efficiently and cost-effectively implemented.

Earlier in the process, advocates can lend their expertise to ensuring that the UPR recommendations being made by States are drafted in clear and actionable terms. They can also contribute to monitoring and evaluation of follow-up by States, such as by establishing clear benchmarks for progress and by drawing upon existing tools and measures for assessing health rights. Through these and other means, advocates can contribute to holding States accountable for their international human rights obligations relating to health.

### Conclusion

Thirteen years after its initiation in 2006, the Universal Periodic Review has emerged as the Human Rights Council's principal forum for peer-driven human rights recommendations to States. The WHO-Essex study and other research has demonstrated that the UPR covers a broad range of economic, social, and cultural rights, among which is the right to highest attainable standard of physical and mental health. The UPR represents several significant opportunities for health-rights advocates, including raising the salience of neglected health issues, ensuring their effective framing in terms of human rights, contributing to various UPR consultation processes, and assisting with follow-up and implementation.

### Further resources:

World Health Organization, *Advancing the right to health through the Universal Periodic Review*. Geneva (2019).

Centre for Economic, Social and Cultural Rights, *Universal Periodic Review: A skewed agenda? Trends analysis of the UPR's coverage of economic, social and cultural rights* (2016).

UNFPA, *Lessons from the First Cycle of the Universal Periodic Review: From commitment to action on sexual and reproductive health and rights* (2014).

Universal Rights Group, *Towards the third cycle of the UPR: Stick or Twist?* (2016).

UPR Info, *Beyond Promises: The Impact of the UPR on the Ground* (2014).

UPR Info, Database of recommendations at: <https://www.upr-info.org/database/>

