

**AFRICAN STATES AND THE UNIVERSAL
PERIODIC REVIEW MECHANISM: A STUDY OF
EFFECTIVENESS AND THE POTENTIAL FOR
ACCULTURATION**

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ABSTRACT

This thesis examines African states' engagement with the United Nations Human Rights Council's Universal Periodic Review (UPR) mechanism, at the completion of the first two cycles in 2016. Drawing from a number of interdisciplinary sources, this thesis seeks to introduce an original conceptual and theoretical framework to evaluate state engagement with the UPR mechanism. This research project undertakes case studies on Kenya, Nigeria and South Africa which address four core issues. First, a five-step approach to measuring the 'effectiveness' of state engagement is developed. Second, the potential for the UPR to influence human rights changes through the process of acculturation is examined. Third, the impact of regionalism, cultural relativism and ritualism on the UPR engagement of African states is assessed. Fourth, the role of NGOs/Civil Society Organisations in enhancing the UPR engagement of African States is analysed.

The central argument of this thesis is that a compliance-centred theory that relies exclusively on confrontational approaches to human rights implementation is inherently limited. This thesis argues that approaches to human rights implementation which neglect the potential value of cooperative mechanisms such as the UPR, are necessarily incomplete and may be blind to very important human rights mechanisms that emphasise cooperation. I substantiate this conclusion by reference to my major arguments. First, the UPR, which is based on cooperation, can help cause human rights changes within African states in subtle but significant ways, determined in this thesis by the percentage of recommendations that are implemented. Second, African states engage more effectively with the UPR than with other human rights monitoring mechanisms.

I argue that the theory of acculturation provides an appropriate theoretical framework to understand the potential impact of state engagement with the UPR mechanism as it does not incorporate any element of coercion. I highlight how the inclusive and cooperative framework of the UPR provides important and effective conditions for acculturation. Findings both within and outside the

formal timeframe of the reviews underscore the potential for the UPR to influence human rights changes within states over time. However, evidence of regionalism, cultural relativism and ritualism are aspects which have negatively impacted states' engagement with the UPR in some instances. Nevertheless, I argue that regionalism can play a positive role, that cognitive reframing can help overcome cultural relativism, and that effective NGO engagement can help counter state ritualism in the UPR. Thus, I argue that the UPR mechanism is a valuable approach to monitoring the human rights implementation of African states.

DECLARATION

This work contains no material which has been accepted for the award of any other degree or diploma in my name, in any university or other tertiary institution and, to the best of my knowledge and belief, contains no material previously published or written by another person, except where due reference has been made in the text. In addition, I certify that no part of this work will, in the future, be used in a submission in my name, for any other degree or diploma in any university or other tertiary institution without the prior approval of the University of Adelaide and where applicable, any partner institution responsible for the joint-award of this degree.

Some of the arguments in this thesis have been published during the course of research and writing. The themes emerging from African states' engagement with the UPR including regionalism, cultural relativism and ritualism were first published in:

‘African States: Themes emerging from the Human Rights Council’s Universal Periodic Review (UPR) Mechanism’ (2018) *Journal of African Law* (Forthcoming)

The analysis on the effectiveness of South Africa’s Engagement with the UPR was first published in:

‘The Effectiveness of South Africa’s Engagement with the Universal Periodic Review (UPR): Potential for Ritualism?’ (2017) 33(2) *South African Journal on Human Rights* 258-285.

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Signed: Etone Damian

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