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978-1-107-08630-2 - Human Rights and the Universal Periodic Review: Rituals and Ritualism

Hilary Charlesworth and Emma Larking

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HUMAN RIGHTS AND THE UNIVERSAL PERIODIC REVIEW

The Universal Periodic Review is an intriguing and ambitious development in human rights monitoring which breaks new ground by engaging all 193 members of the United Nations. This book provides the first sustained analysis of the UPR and explains how the UPR functions within the architecture of the United Nations. It draws on socio-legal scholarship and the insights of human rights practitioners with direct experience of the UPR in order to consider its regulatory power and its capacity to influence the behaviour of states. The book also highlights the significance of the embodied features of the UPR, with its cyclical and intricately managed interactive dialogues. Additionally, it discusses the rituals associated with the UPR, examines the tendency of the UPR towards hollow ritualism (which undermines its aspiration to address human rights violations comprehensively) and suggests how this ritualism might be overcome.

HILARY CHARLESWORTH is an Australian Research Council Laureate Fellow and Professor of International Law at the Regulatory Institutions Network of the Australian National University, Canberra, where she is also Director of the Centre for International Governance and Justice.

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ABBREVIATIONS

AICHR	ASEAN Intergovernmental Commission of Human Rights
ASEAN	Association of Southeast Asian Nations
AU	African Union
CAT	Convention Against Torture
CCG	Country Consultative Group
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Convention on the Elimination of Racial Discrimination
CPED	Convention for the Protection of All Persons from Enforced Disappearance
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSO	civil society organisation
CtAT	Committee Against Torture
CtEDAW	Committee on the Elimination of All Forms of Discrimination Against Women
CtERD	Committee on the Elimination of Racial Discrimination
CtRC	Committee on the Rights of the Child
DOJ	Department of Justice (US)
DOMA	Defense of Marriage Act (US)
ERPA	End Racial Profiling Act (US)
FSM	Federated States of Micronesia
HRC	Human Rights Council
HRWG	Human Rights Working Group (Indonesia)
IACtHR	Inter-American Court of Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
LGBT	lesbian, gay, bisexual and transgender
LWOP	life imprisonment without parole
NGO	non-governmental organisation
NHRI	national human rights institution
OAU	Organisation of African Unity

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OHCHR	Office of the High Commissioner for Human Rights
OIC	Organisation of Islamic Cooperation
PIF	Pacific Island Forum
PIFS	Pacific Island Forum Secretariat
PNG	Papua New Guinea
RRRT	Pacific Regional Rights Resource Team
SOGI	sexual orientation and gender identity
UN	United Nations
UNDRIP	UN Declaration on the Rights of Indigenous Peoples
UPR	Universal Periodic Review
WEOG	Western European and Others Group

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PREFACE

This book is the result of a conference held at the Australian National University in Canberra in December 2012. The aim of the conference was to bring together scholars and human rights practitioners from around the world to examine the United Nations Human Rights Council's novel mechanism, the Universal Periodic Review (UPR). The first four-year cycle of the UPR concluded in 2012 and the conference was designed to assess the UPR's progress as a technique to protect human rights at the international level.

We thank all the conference participants warmly for their engagement in this enterprise. Many travelled long distances to join us and gave their time and expertise generously. Most of the conference presentations are included in this book in revised form and we are grateful to their authors for their patience in dealing with rounds of revisions. The conference also benefitted greatly from the presence of Philip Alston (New York University), and of Mika Kanervavuori (Office of the High Commissioner for Human Rights, Fiji) who shared their deep experience of the UN human rights system. We were fortunate to have Claire Mahon (Geneva Academy of International Humanitarian Law and Human Rights) join us by Skype from Geneva, contributing her insights on the importance of civil society involvement in the UPR. The conference was also enriched by the thoughtful responses and contributions of a wider audience that included PhD students Suzanne Akila, Shane Chalmers, Paola Forgione, Nara Ganbat, Jacqueline Parry and Mimi Zou.

Critical to the enterprise was Marie-Eve Loiselle, who provided wonderful logistical support for the Canberra conference, and Harry Aitken, Jack Taylor and Stephanie Guest who were excellent research assistants. Gerd Oberleitner and Terry Halliday provided helpful comments on the introduction. The team at Cambridge University Press, Finola O'Sullivan and Richard Woodham, made the process of publication efficient and enjoyable.

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Finally, we thank all our colleagues at the Regulatory Institutions Network at the Australian National University for creating the rich intellectual environment in which we are privileged to work.