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How 'Universal' Is the United Nations' Universal Periodic Review Process? An Examination of the Discussions Held on Polygamy

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Abstract In 2006, United Nations Human Rights Council was tasked to establish a new human rights monitoring mechanism: Universal Periodic Review process. The objective of this process is to promote and protect the universality of all human rights issues and concerns via a dialogical peer review process. The primary aim of this investigation is to ask the following question: has this claim of promoting and protecting the universality of the human rights been met, or challenged, during state reviews in the UPR process? The issue of polygamy has been selected as the focus for this investigation to be used, primarily, as a tool to undertake an in-depth analysis of the discussions held during state reviews in the review process. In addition, this paper will employ scholarly debates between universalism and cultural relativism, as well as the sophisticated and nuanced approaches that fall in between the polarised opposites, to analyse the discussions held on human rights during state reviews. Ultimately, the findings and discussion of this investigation will provide a unique and valuable insight to the work and operation of the UPR process, so far.

Keywords Universal Periodic Review · Universalism · Cultural relativism · Polygamy

Introduction

Established in 2006, to replace its predecessor the United Nations Commission on Human Rights, the United Nations Human Rights Council was tasked to undertake reviews of states of their human rights obligations through a new human rights monitoring mechanism: Universal Periodic Review process. The objective of the review is to assess the extent to which human rights obligations are fulfilled by each state of the

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United Nations in a manner that ensures universality of coverage and equal treatment via a dialogical peer review process. It is this dialogical element of the review process that gives it its novel and unique character. Each state is to be peer reviewed once every 4 years. The UPR process has completed its first two cycles of reviews; the first took place between 2008 and 2011, and the second between 2012 and 2016. Therefore, to date, all states of the United Nations have been reviewed twice under in the UPR process. Described by, the then, UN Secretary General Ban Ki Moon to have ‘great potential to promote and protect human rights in the darkest corners of the world’, (Office of the High Commissioner for Human Rights 2008), the review process has been applauded as ‘one of the most important and innovative mechanisms of the Council’ (KP Sharma Oli, Statement Honourable KP Sharma 2006). One of the primary reasons for such optimism is largely based on a significant trait of the UPR process: its *universal* nature. This claim of ‘universality’ in the work and operation of the UPR process is embedded on two fundamental grounds that form the primary aim of the review. The first aspect of the claim is based on the universal coverage and applicability of the process. It is the first human rights monitoring mechanism whereby *all* member states of the United Nations are held accountable for their international human rights law obligations under the same uniform procedure (A/RES/60/251). The completion of two cycles of review with full participation by every member state shows that, to date, this aspect of the claim has been achieved.

The second aspect of the universal claim of the UPR process is more challenging to achieve in nature and forms the focus of investigation for this paper. In its founding resolution, it was stated that the primary aim of the process is to ‘promote the universality, interdependence, indivisibility and interrelatedness of all human rights’ (A/HRC/RES/5/1, para 3(a)). This aim is recognised in practice by peer states assessing the extent to which a state under review is in compliance with its international human rights obligations, and issuing recommendations to reform domestic practice in areas of concern. The primary aim of this article is to ask the following question: to what extent has this claim of universality of the human rights been met, or challenged, during state reviews in the UPR process?

It is important to contextualise this claim of universality, in the work and operation of the UPR process, within the scholarly literature on universalism and relativism in conceptualising and implementing international human rights norms. As Meyer aptly notes, there are ‘few scholarly debates more readily engender controversies than the question of the universality of human rights norms’ (Meyer 1992). The most significant critique of the claims of universality of human rights norms is the theory of cultural relativism. For the present purposes, and at the risk of oversimplification, cultural relativism challenges the universal claim of human rights by arguing that moral value judgments, such as interpretation and implementation of human rights, are relative to different cultural contexts from which such moral judgements arise (Hatch 1997; Joyner and Dettling 1990; Binder 1999). The universalist and relativist debates on human rights are now the focus of a substantial and sophisticated line of scholarly works. These works will be employed to help understand and analyse the nature of dialogue held in the UPR process, with the ultimate aim to answer the research question of this investigation.

To date, over 55 different human rights issues have been raised in the UPR process, with multiple subissues raised within these categories. This means that there is a separate line of discussions held amongst states on each of these human rights issues.

To undertake an analysis of all these lines of discussions would be implausible, and unfruitful, for the purposes of this investigation. One of the most contentious issues raised in both cycles of review was the issue of women's rights in the context of polygamous marriages. Not being restricted to the African and Asian regions, the issue of polygamy has consistently and prominently been a focus in the international news (Amnesty International, Iran 2011; BBC News 2012; The Independent New York times 2016, 2017). Whilst it is condemned under international human rights law, such marriages continue to be practiced, and are often justified, on broadly defined cultural grounds. In light of this discrepancy between some domestic laws and the international human rights position on the issue, particularly due the increased susceptibility of cultural justifications for the practice, the issue of polygamy will be utilised as a focus for this investigation to assess whether any disagreements on the issue is vocalised during the discussions in the review process.

The findings of this investigation will provide a unique and valuable insight to the work and operation of the UPR process. Moving away from the solely technocratic, constitutional or state focused analysis of the review process in the existing literature (Domínguez-Redondo 2012; Jonas 2012; Abebe 2009; de Frouville 2011; McMahon and Ascherio 2012; Cochrane and McNeilly 2013; Sweeney and Saito 2009; de la Vega and Lewis 2011; Sen 2011; Sarkin 2010; Komanovics and Mazur-Kumrić 2012), this paper has considered the UPR process as a phenomenon of exploration in itself. This investigation will undertake a sustained and comprehensive analysis of the dialogues held on the issue of polygamy over the two cycles of review to provide an evaluative contribution to help understand the nature of the review process and how this unique monitoring mechanism operates in practice.

This article is organised into five main sections. The focus of the first section is to provide a brief overview of the mechanics and modalities of the UPR process. The second section will provide a succinct account of the contemporary debates between universalism and relativism. This theoretical analysis will be employed to interpret, understand and analyse the discussions held on women's rights in the context of polygamy. The third section will analyse why the issue of polygamy is a human rights issue, despite the lack of a specific human rights norm prohibiting such marriages. In the fourth section, the findings of the investigation are presented, and the fifth section is dedicated to providing a discussion on these findings with the aim of answering the research question posed for this investigation.

The Mechanics and Modalities of the UPR Process

The UPR process is a peer review mechanism, whereby the human rights records of all 193 member states are reviewed once every 4 years (A/RES/60/251 para, 5). The review considers the state's performance in relation to its obligations under the United Nations' Charter; the Universal Declaration of Human Rights (UN General Assembly 1948); United Nations human rights treaties to which the state is a party; any voluntary pledges it has made regarding human rights, including any commitments it had made during the previous cycle of review; and the principles of international humanitarian law ((A/HRC/RES/5/1, para 3(i)). The first cycle of the UPR was held between 2008 and 2011, allowing 48 states to be reviewed per year. The second cycle of review was held in 2012 until the end of 2016, permitting the review of 42 states per year.

The review is based on a compilation of three written reports: a ‘national report’, which is a self-assessment of the human rights situation in the domestic context (A/HRC/RES/5/1, Annex 1 section 15 (a)). The other two reports provide an external account of the state’s human rights obligations: one report is a collection of information provided by a number of United Nations bodies; the other report is based on information provided by stakeholders, such as non-governmental organisations (NGOs), or other national human rights institutions (NHRIs) (A/HRC/RES/5/1, Annex 1 section 15 b and c). Once these reports have been circulated, state representatives are invited to consult these reports and to devise questions and recommendations to be directed to the state under review at, what is, the key stage of the review process: the interactive dialogue session. Formally, each state review is undertaken by the UPR Working Group, which consists of the 47 member states of the United Nations Human Rights Council. However, at the interactive dialogue stage, any member state of the United Nations can take the stage to make a comment, ask a question or provide a recommendation to the state under review in relation to any human rights issue. In response, the state under review is required to provide an instantaneous reply (A/HRC/PRST/8/1, para 4). This dialogue can last up to 3.5 h. Following the discussions, a Final Outcome Report is produced, which consists of all the comments, questions, recommendations and responses provided by states (A/HRC/RES/5/1, Annex 1, section 27). The recommendations that enjoy the support of the state under review are identified as being ‘accepted’, and those recommendations that are not accepted will be ‘noted’ (A/HRC/RES/5/1, para 32). As such, formally, no recommendations are recorded as being ‘rejected’ by the state under review in the UPR process. However, often, the statements made by the states under review, which accompany the responses, provide a strong indication when a recommendation is rejected.

The interactive dialogue session plays a fundamental and unique role in determining the extent to which the UPR process meets its ultimate aim to further the promotion protection of human rights. This is because the state under review is required to formally express its position in response to the recommendations issued, which if accepted generates an expression of commitment to the action being suggested on any given human rights issue. This commitment can not only be used to review the state’s progress in the next cycle of review but can also be used as a tool by civil society and stakeholders to hold states accountable in the domestic context. In addition, the political momentum that is generated amongst the discussions held on particular issues on the interactive dialogue session can create avenues to influence or facilitate domestic policy and social reforms in the state under review. In this way, for the purposes of this investigation, it is suggested that the nature of the discussions held in the interactive dialogue session can set the tone of any domestic social and policy reforms on the issue of polygamy.

Once the review is complete, the state under review has the primary responsibility to implement the recommendations prior to its next cycle of review. The implementation process may be undertaken with the aid of other UN systems, civil society, national human rights institutions and other relevant stakeholders.

Mediating Between the Debate on Universalism and Cultural Relativism

The renowned optimism that engulfed the UPR process is primarily based on its *universal* nature. With all the member states of United Nations having completed their

reviews in the two cycles of the process, the aim of universal applicability, to date, has been fulfilled.

The other, more challenging, aspect of the universal claim of the UPR process is embedded in its founding resolution, where it is stated that one of the primary aims of the process is to promote and protect the universality of all human rights (A/HRC/RES/5/1, para 3(a)). This universal claim in relation to human rights at the United Nations is not novel, as it is has been proclaimed, reaffirmed and emphasised in a profound number of international human rights documents. Indeed, the notion of universality is often intertwined with the conceptualisation of human rights. For example, Maurice Cranston conceives human rights to mean 'by definition universal moral rights, something which all men, everywhere, at all times ought to have' (Cranston 1973). Going further, Richard Wasserston's widely cited definition conceives the notions of universality and human rights synonymously, as he suggests that any right, to qualify as a human right, is contingent on the requirement of it being universal (Wassertstron 1964). Elaborating on these definitions, Jack Donnelly succinctly argues that as humanity or human nature is universal, logically, human rights should also be universal, and as such, since being a human cannot be relinquished in any way, human rights are not only egalitarian in their entitlement, but are also inalienable (Donnelly 1998). In this regard, the contemporary definition of human rights draws its claim of universality from the multiple strands of moral universalism, which holds core the value that there exists a reasoned and identifiable moral order, which precedes any social, historic and moral contingency (Donnelly 1989). In other words, universalists' claim that the implementation of international human rights norm should transcend any cultural boundaries and particularities (Sloane 2001).

Despite the attractive simplicity of the universal proclamation of rights, both in the documents produced at the United Nations and in the scholarly writings, it veils the multifaceted issues and concerns that are embedded in the interpretation and implementation of international human rights norms. Indeed, the proclaimed universality of human rights has been most prominently contested following the adoption of the Universal Declaration of Human Rights, where the American Anthropological Association issued a widely circulated statement rejecting the possibility of the universal implementation of international human rights norms (Executive Board, American Anthropological Association 1947). This statement is rooted in the most profound challenges to the universality of human rights: the theory of cultural relativism. Similar to the many strands of moral universalism, cultural relativism has numerous variations. At the heart of this theory are two core values. First, that, all values and moral belief systems are culturally specific (Meyer 1996); consequently, 'what is morally right in relation to one moral framework can be morally wrong in relation to a different moral framework' (Harman and Thomson 1964). Second, it is believed that as there are such wide variations between the belief systems within cultures, norms are incomprehensible to one another with no possibility of constructive dialogue between them (Spaak 2007; Khun 1979). Cultural relativists thereby challenge the universalist claim of human rights by arguing that moral value judgments, such as interpretations of what constitutes human rights, are relative to different cultural contexts from which such moral judgments arise (Hatch 1983; Joyner and Dettling 1990; Binder 1999; Tesón 1984).

The polarisation of the human rights discourse between universalism and cultural relativism is a relatively distant past within scholarly debates. Contemporary scholarly

discourse on universalism and relativism has shifted away from these two extremes toward a broad consensus in accepting the merits of the universal project on international human rights law, whilst recognising the importance of culture in supporting its conceptualisation and implementation in the domestic contexts (Dembour 2001; Renteln 1985, 2013; An-Na'im 1991; Lenzerini 2014; Merry 2003; Zwart 2012; Obermeyer 1995; Falk 1995). Space here does not permit an in-depth analysis of all the approaches suggested by scholars in mediating between universalism and relativism. Instead, an analysis of the interpretation of culture and the concept of cultural legitimacy will provide a succinct, yet invaluable, insight of the nuanced and sophisticated discussions held in between the polarised extremes of universalism and relativism.

Conceptualising 'Culture' and 'Cultural Legitimacy'

Numerous scholarly works have been dedicated to the conceptualisation and significance of culture (Geertz 1973; Pearce and Kang 1988; An-Naim and Hammond 2000; Fisher 1997; Lindholm 1985; Nyamu-Musembi 2002; Herskovits 1964). Whilst these discussions are fundamental, a more detailed analysis of the boundaries of culture can provide a tool to understand the more nuanced positions held by scholars in between the spectrum of universalism and relativism.

The Boasian interpretation of culture is the most criticised as it perceives culture as a 'static, homogenous and bounded entity' (Preis 1996; Boas 2012). In this regard, culture is understood to be 'time insensitive' and consequently determines 'the destiny of the population and the ways in which they think, feel, judge and behave' (Li 2006; Bell 2001). One of the most profound criticism of this narrow interpretation of culture is that it not only plays pretence to the possibility of boundaries being drawn around any human group, but, more importantly, also fails to take into account historical and social changes that occur within cultures over a period of time (Preis 1996; Perry 1998; Donnelly 1984). This reluctance to accept that cultural norms can be reformed is at the heart of the strongest form of cultural relativism. At the centre of this critique, there is a belief that cultural values should be the sole legitimating factor in assessing external norms. This form of relativism belief holds the false presumption that cultural beliefs can be determined by clear boundaries. In addition, the prioritisation of cultural values over external norms presumes that cultural beliefs are not subject to any reforms. This form of relativism is often used by repressive regimes to justify intolerable practices (Iovane 2007, p. 231; Donoho 1991, p. 380), and it is these views which are responsible for the 'scorn of cultural relativism by philosophers' (Renteln 1990).

In contrast, a modern conceptualisation of culture recognises it as a dynamic process by with 'fluid' boundaries (Lindholm 1985; Nyamu-Musembi 2002; Ibhawoh 2000). Scholars that adopt this interpretation recognise that cultures are often subject to 'internal inconsistencies, conflicts and contradictions' (Merry 2003). Sally Engle Merry clarifies the traditional misconception in the interpretation of culture by arguing that contemporary anthropologists understand cultural 'boundaries as fluid' as cultural norms are 'marked by hybridity and creolization rather than uniformity or consistency' (Merry 2003). In this regard, cultural norms and values are considered to be both open, and subject, to changes and reforms (Ibhawoh 2000, p. 841). In fact, An'Naim has suggested that the permeable nature of cultural norms can be utilised to support and ultimately enhance the implementation of human rights protection (An-Na'im 1995).

The essence of this conceptualisation of culture is encapsulated in the works of a number of scholars that have identified the merits of cultural support in furthering the implementation of international human rights in the local context (An-Na'im 1995; Zwart 2012; Meery 2006; Falk 1995; Lenzerini 2014). Whilst there are nuanced variations between the suggestions advocated by scholars, their positions have formed part of the contemporary discourse in mediating between relativism and universalism. For instance, Marie-Benedicte Dembour recognises that considering the positions of universalism and relativism in isolation of each other is untenable (Dembour 2001). Instead, she argues that we should 'err uncomfortably between the two poles represented by universalism and relativism' (Dembour 2001). Expanding on her position, she suggests that there should be a strive toward an intermediatory position, whereby the dialogue and implementation of international human rights law should 'allow local circumstances to be taken into account, to be part of the equation' (Dembour 2001). Similarly, Alison Dundes Renteln attempts to offer a solution between the polarised debates by suggesting that, despite differences amongst individuals, there exist cross-cultural universal values that are held in common by all societies, which can be used to legitimise universal moral standards (Renteln 1990).

At the heart of the suggestions posited by scholars that mediate between universalism and relativism is the ultimate goal of achieving cultural legitimacy of human rights. Cultural legitimacy is the belief that international human rights norms are more likely to achieve authority and reverence by members of a particular culture, if they are considered to be validated by the culture norms and principles, and also bring benefits to the members of the culture (An-Na'im 1990). Amongst the scholars that have provided contributions in seeking an intermediatory position between the polarised debate, the contribution by Abdullahi An-Na'im forms the most prolific and comprehensive. At the centre of his scholarly works, which spans over many decades, is the aim to achieve cultural legitimacy of international human rights norms. He argues that as human beings comprehend things through their own cultural lens, the legitimacy of human rights norms can only be achieved if members of a particular culture consider the norms to be validated and sanctioned by their own cultural norms (An-Na'im 1990). To this end, An-Na'im has developed a two-stage approach in implementing the cross-cultural approach to the interpretation and implementation of human rights. The first is to engage in an 'internal discourse' within cultures on those values and beliefs that are inconsistent with international human rights law. With the aim to avoid 'dictation by outsiders', individual actors within the culture itself are encouraged to undertake reforms based on cultural principles, norms and texts (An-Na'im 1994). Once an adequate level of legitimacy is assumed through an internal discourse, An'Naim suggests that the next stage is to engage in a cross-cultural dialogue. This involves the participation by people of diverse cultures in agreeing upon the meaning, scope and implementation of human rights at international and local level (An-Na'im 1995). Part of the role of the external actors is to support and encourage those within the culture to legitimatise human rights norms by implementing appropriate internal cultural dialogue and policy implementation. Such a cross-cultural dialogue is to be undertaken between different member's states on an international forum.

The above analysis demonstrates how the contemporary discussions on international human rights norms have moved away from the polarised extremes of universalism and relativism. Instead, those scholars that are engaged in these debates have suggested

more nuanced positions that recognise the merits of universal project of human rights, as well as the significance of culture in the conceptualising and successful implementation of human rights. This theoretical discussion can be employed to understand and analyse dialogues on any human rights issue, which may be contrary to international human rights law, yet has support in the domestic context based on cultural values and norms. One example of such issue, that forms the focus of this investigation, is that of polygamy. Raised in both the first and second cycle of the UPR process, the issue of polygamy has often had a strong association with culture with some claiming that the practice is condoned by cultural norms and values. Before the findings are presented, it is worth mapping polygamous marriages in the context of women rights and international human rights law, more broadly.

International Human Rights Law and the Problems Posed for Women's Rights in Polygamous Marriages

To begin with, it is important to note that there are no human rights norms within the international human rights framework that expressly prohibit polygamy. Nevertheless, the United Nations jurisprudence, emanating from the treaty bodies, has made it clear that polygamous marriages violate a wide range of civil, political, economic, social and cultural rights of women, which are embedded in an array of international human rights documents and other customary documents (CCPR General Comment No. 28, 2000 para 24; CEDAW General Recommendation 21 1994 para 14). The most profound claim is that such marriages are contrary to the protection of the right to non-discrimination and equality before the law. This is because polygamous marriages permit a man to take an additional spouse, but do not grant a similar right to a woman to take a husband; on this basis, it has been stated that such marriages should be prohibited (ICCPR Article 23(4) 1966; CCPR General Comment No. 28, 2000 para 24; UDHR 1948; UN General Assembly 1996). Moreover, the Committee on the Convention on the Elimination of Discrimination against Women (CEDAW) has made it clear that as polygamous marriages are incompatible with a number of women's rights, they should be prohibited *regardless* of whether such marriages are deeply rooted in cultural and traditional values (UN Press Release WOM/1452 2004; CEDAW General Recommendation 21 1994 para 41).

Despite repeated assertions on the prohibition of such marriages in the jurisprudence of the United Nations, the regulation of polygamous marriages under domestic jurisdiction is subject to wide-ranging variations. At one end of the spectrum, some states, largely in the European and American regions, prohibit polygamous marriages under law, and in some instances, the practice of such marriages is declared as a criminal offence (Gaffney-Rhys (2011). In contrast, in other states, largely located in the African and Asian regions, polygamous marriages are recognised under the domestic legal system and are practiced, often, with some conditions and restrictions (Gaffney-Rhys 2011; WLUML 2006). In few parts of the world, for instance in central Africa, the legal status of a polygamous marriage is ambiguous, as both civil law and customary law and/or religious law operate simultaneously (De Cru 2010). In such cases, the multiple legal systems mean that polygamous marriages may not be lawful under civil law, but continue to be practiced as they are often recognised under customary/religious law.

The discrepancy that exists between the United Nations' stance on polygamous marriages and the continued practice of such marriages in some local context is often related to cultural and religious norms. For instance, those that are sympathetic to such marriages often cite religious norms as mandating polygamy (Rehman 2007). Frequently, coinciding with this justification, the support of such marriages is claimed to have emanated from values embedded in culture. For instance, such marriage institutions facilitate socio-political alliances, as well as being the source of prestige, power and influence (Nkomazana 2006). Offering a possible explanation for such cultural justifications in relation to polygamous marriages, scholars have drawn upon the division between 'public' and 'private' spheres that exist in the mainstream women's rights discourse (Charlesworth 1995). The public sphere is considered to include government and political activities, which are largely regulated by the state, whereas the private sphere is the family and domestic life, which predominately raises issues that impact women and are more likely to be susceptible to regulation by cultural norms (Peach 2001; Hernandez-Truyol 1999). In this way, as polygamy falls within the remit of the private sphere, the rights, issues and concerns of women are more fragile to the claims of culture (Cerna 1994; Cerna and Wallace 1999; Mertus 1995; Hernandez-Truyol 1999). This increased susceptibility of women's rights in relation to polygamy being subject to the claims of culture makes it suitable to question the overarching claim of universality of the UPR process. The spread of human rights standard and obligations in relation to women's rights in relation to polygamy across a number of human rights instruments makes the UPR process a unique mechanism with a potential to undertake a comprehensive review and hold states to account of these rights that are engaged in polygamous marriages in a single exercise.

Findings on How the Issue of Polygamy Was Discussed During State Reviews

Over the two cycles of the UPR process, the issue of polygamy was raised at the interactive dialogue session during 18 state reviews. The discussions on polygamy were predominately held in the first cycle, as the issue was only raised during the review of five states in the second cycle of the UPR process. A total of 22 recommendations have been issued on polygamy over the two cycles. Of these, only 10 recommendations were accepted, and 12 being noted by the states under review; this reflects the lack of consensus on the issue.

In terms of geographical locations of the states that received recommendations on polygamy, 14 of 18 states were from the African region. In addition, it has emerged that whilst African states were, overwhelming, on the receiving end of these recommendations, no state from within this region issued a recommendation on polygamy. Whilst there may be bureaucratic explanations as to why African states refrained from issuing recommendations on polygamy, the consistency of the silence over two cycles gives reason to suggest that the lack of participation by African states on discussions held on polygamy may be more of a conscious decision, which is underpinned by regional alliances.

For the purposes of this paper, the statements issued by states during the interactive dialogue sessions have been divided into a number of categories. Organising the discussions in this way will help to analyse and formulate a rich understanding of the

nature conversations held between delegates on polygamy over the two cycles of review. Such categorisation will also help to identify any patterns that may emerge in the discussions held on the issue, which ultimately will provide a better understanding of what the UPR process is and how it operates in practice.

A summary of the discussions held on polygamy over the two cycles of review is encapsulated in Table 1, below. The statements made during the interactive dialogue sessions can be divided in two main categories: first, recommendations issued by the observer states and second the responses provided by the states under review when accepting or noting the recommendation. In the case of both recommendations and responses, the title given to each category summarises the essence of the statement issued. The recommendations made on polygamy are divided into four main categories, which can be found on the rows toward the left of Table 1. The nature of the responses provided by the state under review is divided into six categories; these can be found on the columns in Table 1, shaded in grey and blue. These six categories are further divided into two main categories; those recommendations that were accepted have been abbreviated with an A, and those noted with an N. These were found in the columns labelled A1 to N4 in Table 1. Surprisingly, the nature of recommendations and responses that were issued in the second cycle was similar to the first cycle; therefore, the same categories were adopted for the purposes of analysis for the second cycle of the UPR process.

Recommendation 1: Polygamy Declared as a Harmful Traditional Practice

In the first cycle of review, observer states that issued recommendations under the first category expressly declared polygamous marriages to be a harmful traditional practice that was required to be eliminated. Encapsulating the essence of this recommendation, during the review of Equatorial Guinea, the Norwegian delegate recommended to 'combat harmful traditional practices under customary law, such as … polygamy' (UNHRC 'Equatorial Guinea' 2010a A/HRC/13/16, para 67.4).

When issued with recommendations of this nature, states under review provided a variety of responses. The delegate from Equatorial Guinea noted the recommendation, whilst Madagascar accepted; in both instances, neither state provided any statements to provide an explanation for the positions that they had adopted. On the other hand, Turkey accepted the recommendation and insisted that 'polygamy and mere religious marriages…were prohibited' (UNHRC 'Turkey' 2010c A/HRC/15/13, para 40).

Adopting a different position, the delegate of Botswana noted the recommendations as it denied the 'existence of harmful practices to women, especially those alleging the…existence of polygamy' (UNHRC 'Report of the Human Rights Council on its tenth session' 2009c A/HRC/10/29, para 272). This response not only indicates that it viewed polygamous marriages as harmful to women but also denied the existence of such marriages in the state. This is surprising as Botswanaian law operates under a dual system, whereby customary laws are applied alongside common law. Thus, whilst a person may only have one registered spouse under common law, a man can take more than one wife under customary law (UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human (2008b) A/HRC/WG.6/3/BWA/3). This shows that whilst the denial of existence of polygamous marriages by the Bostswanian delegate may be correct according to the common law of the land, this overlooks the de facto existence of such marriages under customary law.

Table 1 Nature of the dialogue held amongst states on the issue of polygamy in the first and second cycle of the UPR process

Universal Periodic Review Cycle 1		Responses by states under review					
		A1 (Accepted with No further comments)	A2 (Domestic laws already in place which prohibit polygamy)	N1 (No further comments)	N2 (Denial of the existence of any practices harmful to women)	N3 (Domestic laws on polygamy under review)	N4 (Reforms challenged on cultural and/or religious grounds)
Nature of Recommendations issued to states under review	*Recommendation 1* (Polygamy declared as a harmful traditional practice)	Madagascar	Turkey	Equatorial Guinea	Botswana		
	Recommendation 2 (Reforms to domestic legislation on polygamy)	Kyrgyzstan				Central African Republic	Burkina Faso Tanzania
	Recommendation 3 (Ensure compliance with international human rights law on polygamy)		Israel				Libya Ghana
	Recommendation 4 (Adopt measures to eliminate polygamy)	Kyrgyzstan Mauritania					Senegal
Universal Periodic Review Cycle 2		**Responses by states under review**					
		A1 (Accepted with No further comments)	A2 (Domestic laws already in place which prohibit polygamy)	N1 (No further comments)	N2 (Denial of the existence of any practices harmful to women)	N3 (Domestic laws on polygamy under review)	N4 (Reforms challenged on cultural and/or religious grounds)
Nature of Recommendations issued to states under review	*Recommendation 1* (Polygamy declared as a harmful traditional practice)						
	Recommendation 2 (Reforms to domestic legislation on polygamy)		Equatorial Guiana				
	Recommendation 3 (Ensure compliance with international human rights law on polygamy)			Morocco			
	Recommendation 4 (Adopt measures to eliminate polygamy)	Democratic Republic of Congo Russia					Burkina Faso

Overall, it can be observed that when recommendations under this category were issued under the first cycle of review, the responses by the states under review were, to a large extent, subdued. For instance, regardless of whether the recommendation was formally accepted or noted, the delegates either provided no further comment or focused on providing details on the domestic actions already in place to address polygamy. In this way, states under review when held accountable on the issue fell substantially short of engaging in a fruitful dialogue on polygamy. More importantly, when issued with a recommendation under this category, states under review did not exercise any commitments to reforming their current practices to address the issue of polygamy in their respective states. This lack of commitment exercised by any state under review calls in to question the central aim of the UPR process to promote and protect universal rights.

Finally, it is noteworthy that whilst recommendations under this category were frequently issued under the first cycle, in contrast, during the second cycle of review, no observer states issued recommendations that described polygamy as a harmful traditional practice.

Recommendation 2: Reforms to Domestic Legislation on Polygamy

The second category of recommendations issued by observer states directed the states under review to enact or amend domestic legislative provisions in relation to polygamy. A total of four states were issued with this type of recommendation under the first cycle, and one state in the second cycle. Argentina's recommendation to Kyrgyzstan captures the essence of these recommendations when the delegate suggested to 'enact laws criminalising…polygamy' (UNHRC 'Kyrgyzstan' 2010e A/HRC/15/2, para 76.61).

In the first cycle of review, the delegate of Kyrgyzstan was the only state that accepted a recommendation of this nature; however, the delegate refrained from providing any other statements. On the other hand, the delegate of the Central African Republic (CAR) noted the recommendation explaining that the current 'family code was being reviewed to ensure its compliance with international standards with a view to either maintaining or abolishing polygamy' (UNHRC 'Report of the Human Rights Council on its twelfth session' 2010f A/HRC/12/50, para 221). The refusal to formally accept the recommendation, together with the statement that indicates that CAR is open to the possibility of polygamous marriages, suggests that such marriages continue to exist, or be implicitly condoned, in the domestic context. This gives reason to suggest that the CAR may adopt a position under domestic law, which may be contrary to its international human rights position in relation to polygamous marriages.

The responses to these recommendations provided by Burkina Faso and Tanzania were bold and distinctive in nature. This is because the states justified the continuance of polygamous marriages on the basis that they were condoned by cultural or religious norms of the state under review. Having noted the recommendation, the delegate of Burkina Faso began by explaining that 'polygamous marriage was optional whereas monogamy was the rule' (UNHRC 'Report of the Human Rights Council on its tenth session' 2009c A/HRC/10/29, para 577). Going further, the delegate explained that polygamy was 'one of the secular aspects of the culture of Burkina Faso'. Similarly, during the review of Tanzania, the delegate explained that the recommendation was not

accepted 'on the basis of the enjoyment of cultural and religious rights' (UNHRC 'Report of the Human Rights Council on its nineteenth session' (24 May 2013a) A/HRC/19/2, paragraph 376).

In the second cycle of review, a recommendation under this category was only issued once, which was accepted by Equatorial Guinea; the delegate noted that existing laws to prohibit polygamy were already in place (UNHRC Addendum report of EG).

Recommendation 3: Ensure Domestic Laws Are in Compliance with International Human Rights Law on Polygamy

The focus of the recommendations issued under this category was to ensure that the domestic legislation of the state under review was in compliance with international human rights law in relation to polygamy. A total of three states were issued with recommendations of this nature in the first cycle, and to one state in the second cycle of review. One example of a recommendation under this category is Slovenia's suggestion to Ghana 'to effectively implement measures aimed at eliminating polygamy and bring the norms in line with the CEDAW in the shortest time possible' (UNHRC 'Ghana' (29 May 2008c) A/HRC/8/36, para 50).

During the first cycle, Israel was the only state that accepted the recommendation explaining that it 'agreed to adopt the recommendation…on polygamy, and had recently reinstructed the Qaddi's of the sharia courts to refer every suspected case of polygamy to the police' (UNHRC 'Report of the Human Rights Council on its tenth session' (9 November 2009c) A/HRC/10/29, para 460). In contrast, Ghana and Libya both responded by noting the recommendations and issuing explanations that were similar in nature. The delegate of Ghana explained that marriages that were customary or faith-based 'were in conformity with the customs and traditions of Ghana'. Similarly, the Libyan delegate noted the recommendation under this category explaining that the suggested reforms were 'in conflict with the Islamic religion and the customs, cultural specificities and principles of the Libyan people' (UNHRC 'Report of the Human Rights Council on its nineteenth session' 2013b A/HRC/19/2, para 38). It can be observed that in both instances, the delegates of Ghana and Libya justified not accepting reforms to domestic law to comply with international norms on polygamy by drawing upon customs, traditions and cultural particularities of the states. The two state delegates were not reluctant to expressly prioritise the cultural and traditional particularities of the state above compliance with international human rights norms in relation to polygamy on an international forum such at the UPR.

In the second cycle, only Morocco was issued with a recommendation of this nature; the delegate noted the recommendations and provided no further explanations.

Recommendation 4: Adopt Measures to Eliminate Polygamy

This category of recommendation issued on polygamy can be described as being more generic in nature. Here, observer states suggested that the state under review should adopt measures to eliminate polygamy, without any references to the states' domestic legislation, or its international human rights obligations. A typical example is during the review of Kyrgyzstan when Lithuania and Uruguay issued a recommendation to 'take additional actions to eliminate…polygamy' (UNHRC 'Kyrgyzstan' 2010e

A/HRC/15/2, para 76.62). There were a total of three states that were issued with recommendations under this category in the first cycle. In the second cycle, this type of recommendation was the most frequently issued, with a total of three states being issued with it.

In response to recommendations issued under this fourth category in the first cycle, two states under review accepted the recommendations, whilst one state noted it. The delegates of Kyrgyzstan and Mauritania accepted the recommendations and provided no further statements (UNHRC 'Mauritania' 4 2011b A/HRC/16/17, para 92). By comparison, the delegate of Senegal noted the recommendation and insisted that the observer states 'should take into account the particularities of the Muslim religion which explains the existence of polygamy' (UNHRC 'Senegal' 2009d A/HRC/11/24, para 54). In other words, the delegate of Senegal voiced a direct challenge to the suggested reforms on polygamy based on religious particularities of the states, which justified the existence of polygamous marriages.

In the second cycle, the Democratic Republic of Congo and Russia accepted the recommendations with any further comments. In contrast, Burkina Faso noted the recommendation and explained that 'those recommendations which were not accepted did not adapt easily to the present cultural and socio-economic realities of Burkina Faso' (para 323: HRC Plenary report).

Two points can be noted here. First, the response by Burkina Faso was the only instance in the second cycle where a state used cultural justification to decline to accept a recommendation on polygamy. Second, Burkina Faso issued the same response as it did in the first cycle of review in relation to polygamy. This shows that despite the issue of polygamy being raised again, albeit in a different form of recommendation, the state of Burkina Faso provided cultural justifications for noting the recommendation.

Discussion on the Findings of Polygamy in the First and Second Cycle of the Review Process

Generic Overview

Before undertaking an in-depth analysis on the nature of discussions held on polygamy, a few generic points can be noted from reviewing two complete UPR cycles on the issue. First, from observing Table 1 on the nature of discussions held in both cycles on polygamy, it becomes apparent that the issuance of a particular type of recommendations will not generate a particular form of response by the state under review. For example, a category 1 recommendation will not necessarily result in a category N1 response. This indicates that regardless of the recommendations issued on the issue of polygamy in the two cycles, the states under review adhere to their selected position on polygamous marriages. In this way, the instantaneous responses, which have been lauded as the unique and innovative nature of the monitoring process, are not necessarily organic in nature. In the case of polygamy, the responses have proven to be a predetermined and a prescribed response to any recommendation on the issue.

Second, there is a discrepancy in states being held accountable on the recommendations that were noted in the first cycle. For instance, the states of Tanzania, Libya, Ghana and Senegal provided unwavering reasons for declining to accept the

recommendations on polygamy in the first cycle. None of these states were held accountable for their strong positions on the issue in the second cycle. Some of this blame can be laid in the establishing resolutions of the UPR process, which, unfortunately, provide that the aim of the second cycle is to focus on the implementation of *accepted* recommendations (A/HRC/DEC/17/119, para 6 and Part II) and provide no guidance for action on those recommendations that are noted. For instance, not only was Burkina Faso the only state that was held accountable on the issue of polygamy in second cycle as well as the first, the delegate provided the same N4 response in the second cycle. For this reason, it is suggested that it is likely that the *noted* recommendations should be the issue of further concern, and areas in which further discussions should take place in the UPR process. This lack of accountability of states that held a strong position on declined recommendations on polygamy is a cause for concern, as it calls into question the fundamental purpose of the UPR process to improve and address all human rights situations on the ground (A/HRC/RES/5/1, para 4(a)). If states' positions to reject reforms on polygamy remains unchallenged during its review in the UPR process, at best, it is difficult to gauge out whether any reforms will be implemented on the issue in the local context, or, at worst, the states' unchallenged position at the UPR process may be used as ammunition to reaffirm the states' position to decline to undertaken reforms on the issue in the other international forums, as well as in the domestic context.

Finally, there has been a rapid decline in the prominence of the issue of polygamy being raised during reviews in the second cycle. In addition, the few selected discussions on polygamy centred on laws to be reformed on the area, or were simply general observations made on the issue. In this regard, there is a clear shift from the nature of discussions that were predominating in the first cycle that focused on the relationship between polygamy and culture. It is the focus of these discussions that require a more detailed analysis in the next section.

Nature of Discussions Held on Polygamy

One of the most prevailing findings on the discussions held on polygamy in the first cycle was that some states, either in their capacity as observer states or states under review, expressly recognised the association between polygamous marriages and cultural norms in one of two ways.

First, observer states that issued recommendations under the first category used the relationship between polygamy and culture as a foundation to criticise the practice, and recommend that it be eradicated. The nature of these statements indicate any deviations from the international human rights jurisprudence, which provided protection to women's rights against polygamous marriages, will not be accepted, despite such marriages being embedded in the traditional values of the state. It is posited that the essence of this position adopted by observer states resonates with the strictest interpretation of universalism. At the heart of this position is that the implementation of human rights norms should transcend any cultural boundaries and particularities (Sloane 2001). In this regard, it is notable that when statements of the very strong form of universalism were issued, the states under review demonstrated a very subdued and defensive demure. For instance, the states under review either accepted or noted the recommendation and remained silent, or emphasised that existing laws were already in

place. This ultimately resulted in an arguably unfruitful dialogue, as the states under review failed to agree on any commitments on reforms to domestic regulation on polygamy to abide by the international position on such marriages. This is particularly disappointing as the very foundation and make-up of the UPR process has been purposively designed to invite cooperative discussions amongst states on culturally sensitive issues with a vision to improve the domestic human rights protection. In addition, this rather sterile outcome of these state reviews provides significant practical force to the prevalent conceptual criticisms of the strict presumption of the universality of human rights, which has been the subject of writings for a number of renowned scholars (Short 2011; An-Na'im 1995; Dembour 2001; Renteln 2013).

The second manner in which the relationship between polygamy and culture was recognised was in the issuance of N4 responses. Here, some states under review used the relationship between culture and polygamy as a foundation to justify the existence of such marriages and to decline to accept the recommendations on the issue. This position, which was adopted by the vast majority of states under review that did not accept the recommendations on polygamy, affiliates with the strongest form of cultural relativism. At the heart of this belief is the position that legal and moral standards, which are determined by cultural values, trump any universal claims on a particular issue (Tesón 1985). This belief is reflected in the essence of the position posited by Burkina Faso, Chile, Ghana, Libya and Senegal, who all expressly challenged the suggested reforms to the regulation of polygamy and justified their position the ground that such marriages were embedded in cultural and religious norms. This implies that the legitimisation of polygamy by internal cultural norms of the states takes priority over any external moral or legal standards that may declare polygamous marriages to be contrary to international human rights norms. Despite such an express and obvious challenge to the universality of the international human rights jurisprudence on polygamy, it was notable that no observer states capitalised on the benefits of an instantaneous dialogue at the UPR process to hold the states under review accountable for such a bold rejection of reforms. One of the fundamental criticisms of strict cultural relativism is its exaggerated claim of the impossibility of cross-cultural dialogue, which is used as a basis to provide immunity from criticism to any norms and values that emanate from culture (Spaak 2007; Harman and Thomson 1995; Jarvie 1983). The failing by observer states to hold states that affiliated with the strictest form of relativism to account lends support to these very criticisms. This is disappointing, particularly as the UPR process is characterised by its constructive and cooperative dialogue, which was envisaged to create an apt international platform to discuss culturally sensitive and controversial issues (Domínguez-Redondo 2012).

So far, it can be observed that whenever the relationship between polygamy and culture has been recognised during state reviews, the positions adopted by states affiliate either with the strongest forms of universalist or relativist positions. This is in sharp contrast to the contemporary scholarly debates on the issue, where the conversation on the conceptualisation and implementation of rights has moved away from such polarised extremes, toward more nuanced alternatives that have focused on reaping the benefits of both positions (Dembour 2001; Renteln 1985, 2013; An-Na'im 1991; Lenzerini 2014; Merry 2003; Zwart 2012; Obermeyer 1995; Falk 1995). Going further, when the polarised extremes are adopted in *practice* on an international discourse on human rights norms, the findings of this investigation reveal that the

presumed conceptualisation of culture, and the implications that derive from this interpretation, gives grounds to suggest that there are more similarities with the two positions than is initially apparent.

To begin with, state representatives that have adopted a universalist or relativist approach have, either explicitly or implicitly, adopted a traditional conceptualisation of culture (Boas 2012; Li 2006; Bell 2001). This is because those states that issued category 1 recommendations, or N4 responses, have presumed the very belief that has subjected this interpretation of culture to wide criticism, which is that norms and values within culture are immune from changes and reforms. For example, states that posited a universalist position under category 1 recommendations not only suggested the prohibition of polygamous marriages, but the references to culture also implied that the cultural values and beliefs, which may condone polygamous marriages, should also be eliminated. This shows that the observer states issuing the recommendations failed to consider if, and how, the cultural norms that condone such marriages can be reformed. Similarly, the states that issued N4 responses to defend polygamy, from a position that resonated with cultural relativism, failed to recognise the possibility that cultural and religious particularities that underpin such marriages may be subject to contentions within the proclaimed culture, or even subject to reforms.

The implications of such a polarised debate during state reviews are that the discussions on the relationship between culture and polygamy are oversimplified. Drawing upon the analysis of Ann-Belinda Pries, she explains that in between the strict opposite positions of the relativist and universalist debate, 'it is as if larger, more important questions are lurking under the surface, but they remained unexplored and somewhat blocked precisely because of the rigid 'us' and 'them' dichotomy inherent in the 'culture contact' perspective' (Preis 1996; Ulin 2007). This oversight of larger unexplored issues is evident in the polarised manner in which the discussions of polygamy in the UPR process were held. For instance, those that adopted a universalist stance to criticise polygamous marriages failed to acknowledge that those that are sympathetic to such marriages often hold deeply embedded views that such marriages are legitimised on cultural and religious grounds (Rehman 2007). As such, suggestions to simply eliminate such practices that are condoned by culturally held beliefs are not a plausible or a helpful recommendation. Going further, others sympathetic to polygamous marriages often strongly hold the conviction that polygamous marriages are a function of socio-political alliances and a source of prestige, power and influence (Nkomazana 2006). In this way, observer states restricted the discussions to employing culture to suggest elimination of such marriages, rather even engaging in discourse to address the deeper underlying reasons as to why such marriages are undertaken in the first place. Similarly, when states responded by justifying the marriages on cultural grounds they overlooked multiple complex issues in relation to culture and such marriages. To name a few, states defending such marriages overlooked the issue of gender inequalities in the apparent consent obtained for such marriages, the concern of women being unfaithful to their religion and being ostracised should they object to such marriage structures (Alexandre 2007; Raday 2003) and the possibility of suppression and marginalisation of the voices of women in such marriage structures (Nkomazana 2006).

This oversimplistic nature of discussions on the relationship between polygamy and culture draws emphasis on the absence of one clear dimension of discussions being

held in the UPR process. Both in the first and second cycle of the debate, the discussions held in the interactive dialogue sessions have failed to recognise the merits of cultural support in the conversations of implementing universal human rights. In other words, there is a clear absence of discussions affiliating with the mediated middle ground between universalism and relativism toward achieving culturally legitimate human rights. One aspect of furthering the goal of culturally legitimate human rights is for external actors not only to discuss the scope and implementation of rights but also to encourage those within the culture to engage in an internal discourse to help legitimise human rights in the domestic context (An-Na'im 1994; Lenzerini 2014; Merry 2003). The unique and innovative character of the interactive dialogue session is the one of the most obvious platform for this cross-cultural dialogue to be undertaken. Unfortunately, there is no evidence of the discussions in either cycle that even vaguely resonated with this approach.

There are practical and theoretical implications in the states' failing to engage in discussions that recognise the benefits of achieving culturally legitimate human rights norms to protect women's rights in polygamous marriages. In terms of the practical implications, once the outcome of the UPR is adopted in the plenary session, the discussions and the recommendations held on a particular issue can be used as advocacy tools by civil society and other stakeholder for policy dialogue and social change. The political momentum that is generated at the UPR process, through the discussions and recommendations, can initiate or facilitate avenues for participation by a range of stakeholders in the domestic context. The statements made by representatives in the interactive dialogue session can be used in the national coordination, planning and monitoring for the promotion and protection of human rights issues in the domestic context. In this way, the nature of discussions held at the UPR process becomes critical in the development of the direction and tone of any social, cultural and policy reforms on the ground.

In light of this, in the context of the discussions held on polygamy, the oversimplified nature of debates, and the lack of a culturally legitimate angle to the discussions, is a cause for concern. This is because either defending polygamous marriages on cultural grounds or to suggest to eliminate polygamous marriages regardless of its cultural significance fails to take into account the dynamic and flexible nature of culture, and that the norms of culture may be subject to reforms. At no point during the first or second cycle were states encouraged engage in an internal dialogue, within the cultural context, to achieve cultural support for the international human rights law position on polygamy. In this way, those states that recognised the relationship between polygamy and culture failed to initiate discussions for incremental reforms on the beliefs of the practice in the local context. This oversight is most profound in those cases where states used culture to defend polygamous marriages. Representatives could have encouraged an internal discourse on the issue, which, in turn, could have been used by the relevant national stakeholders to drive policy and cultural changes on the issue on the ground. This would have been particularly significant and useful in those instances where states have used cultural norms as a foundation to defend such practices. This would have provided the required tool for national stakeholders to then utilise the tone of this discussion to achieve cultural legitimacy of rights in relation to polygamy to initiate reforms through national, social and cultural dialogue on the issue. However, as it currently stands, the stakeholders that may seek to undertake reforms in

the domestic policy have little momentum that they can use from the UPR process to facilitate any conversation of reforms for rejections provided on the recommendations based on cultural justifications on the practice.

This leads to the theoretical implications for the lack of a culturally legitimate approach being recognised on the conversation on the UPR process. Whilst in scholarly writings the polarised debate between universalism and relativism is one that is largely reserved in the history, in the practice, conversations in relation to polygamy give reason to suggest that it continues to exist in some instances of discussions in relation to international human rights law. As a result, the problematic implications of such a polarised discussion are applicable in the modern-day discourse on human rights on the international forum in relation to polygamy.

Conclusion

At the end of two complete cycles, all 193 member states of the UN have been reviewed on their human rights obligations, twice. This complete participation by the states meets one of its fundamental aims of universal applicability of the process. It is the first mechanism at the United Nations, where all member states have been reviewed in this egalitarian manner. The second claim of universality embedded in the UPR process was the focus of this investigation. The aim was to assess whether claim of promoting and protecting the universality of the human rights has been met, or challenged, during state reviews in the UPR process. The findings of this investigation give reason to doubt whether this second claim of universality of the UPR process stands to equal success to its universal applicability.

To begin with, the findings of this investigation reveal that when the issue of polygamy was raised, all observer states undertaking state reviews, either explicitly or implicitly, adopted positions that reaffirmed United Nations stance that polygamous marriages violated women's rights, and therefore should be abolished. In fact, some observer states adopted a stricter form of universalism as they indicated that such marriages should be eliminated, despite being justified on values and beliefs that were based on culture. However, this adherence to the international standards on women's rights in polygamous marriages was not reflected unanimously by the states under review when issued with recommendations on polygamy. In fact, there was evidence to suggest that some states under review-adopted positions that affiliated with cultural relativism as a reason to decline to accept reforms on polygamy. Thus, in answering the central question of this investigation, the findings of this investigation reveal that the central aim to promote and protect the universality of all human rights norms is not consistently adhered to in relation to all human rights issues. In fact, on controversial issues such as polygamy, states used the platform was used to challenge the claimed universality of international human rights norms on polygamous marriages. This gives reason to question whether the central claim of universality of the UPR process is successfully achieved.

There are two main conclusions that can be drawn based on the findings and discussions of this investigation. To begin with, the peer review nature of the review process means that there will be a unique composition of state participants that will undertake the review for each member state. This, in turn, means that the nature of

discussions during the interactive dialogue stage, that form the focus of all state reviews, will change and adapt depending on the states participating in the reviews and, more importantly, the human rights issue being discussed. This means that the extent to which the embedded universalist claims of promoting all human rights norm is met will vary not only between state reviews but also within the lines of dialogue in relation to the specific human rights issue itself. Thus, depending on the human rights issue at stake, an analysis of discussions held on polygamy shows that where the issue is controversial in nature and, in particular, has a relationship with culture, the extent of the challenge from a degree of cultural relativism will similarly vary depending on the state being reviewed and the human rights issue at stake. Consequently, the findings of this project give reason to question the overarching universalist aims and principles on the basis that the nature of each state review is unique in nature as it will be formed depending on the participants of the state review and the human rights issues discussed.

The second conclusion of this investigation emanates from the challenge of cultural relativism that adopted some states in the discussions held on polygamy in the first cycle of reviews. The findings of this investigation showed that whilst the polarised debate between universalism and relativism was a distant past in the scholarly debates, this polarisation shows shadows of materialising in practice on dialogues in relation to polygamy in the two cycles of review. The analysis showed how such a polarised debate on polygamy and culture resulted in some discussions held on polygamy was not only oversimplified, but they failed to raise and address some of the fundamental issues in relation to women's rights and concerns within the polygamous marriage structure. Leading from the express challenge from a cultural relativist position on the platform of the UPR process, what was also striking to note was that the states themselves were not held accountable for their challenge to the universality of international women's rights. This silence by the observer states in response to an implicit or explicit challenge to the universality of human rights norms from a cultural relativist perspective is cause for concern. This is because if a challenge from a strict cultural relativist position is expressed in a sustained manner in the second cycle and beyond, and the observer states remain silent and refrain from holding the state to account, then this could result in having wider ramifications to the universality of women's rights protection. This is primarily because an unchecked challenge to the universality of women's rights on an international platform such as the UPR process may in fact undermine the universality of the particular women's rights obligations when raised on different platforms, whether that be on UN treaty bodies, advocated by NGOs or in the national jurisprudence. It has been argued in the literature that the outcomes of the UPR process can potentially be significant enough to be considered as contributing to the international human rights law itself. However, if such gravity and importance is given to those outcomes where states show evidence of consensus on international human rights protection, then similar grave concern should be raised when states challenge the universality of international human rights norms on the UPR process.

As we enter in to the third cycle of review, the findings of this investigation indicate that it seems essential to undertake further exploration of the UPR process with a particular focus on the universalist claim of the review process. If nothing else, this is particularly necessary as a sustained and unchecked challenge to the universality of international human rights norms on an international platform like the UPR process could potentially have wider ramifications for the international human rights

infrastructure itself. Such research seems particularly apt as the third cycle of review of this innovative review process has recently commenced.

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