

Improving Recommendations from the UN's Universal Periodic Review: A Case Study on Domestic Abuse in the UK

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Abstract

Hailed as an international human rights innovation, the UN Human Rights Council's Universal Periodic Review ('UPR') is a peer-review mechanism that assesses the protection and promotion of human rights in all 193 UN Member States, including intergovernmental and civil society input. Importantly, within the UPR, other Member States provide recommendations to each state under review on how it can improve human rights on the ground. States can decide to accept or note recommendations and should then go on to implement those that are accepted. The recommendations are a fundamental part of the UPR process, yet they are not always formulated in a way that leads to positive change. Using the case study of domestic abuse in the UK, this article seeks to add to the current literature through an analysis of the formulation of UPR recommendations, providing five practical suggestions for how recommendations can be improved to ensure action is taken on the ground: (1) use consistent terminology, (2) be specific when discussing aspects of violence against women and girls, (3) UPR recommendations should be fluid and adapt to the changing human rights landscape, (4) utilise recommendations provided by civil society organisations in their stakeholder submissions, and (5) consider applying an intersectional approach when making recommendations.

Key words

Universal periodic review, human rights, recommendations, domestic abuse, United Kingdom of Great Britain and Northern Ireland

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1. Introduction

The UN Human Rights Council's ('UNHRC') 'innovative' Universal Periodic Review ('UPR') is a peer-review mechanism that assesses the protection and promotion of human rights in all 193 UN Member States, including intergovernmental and civil society input. There have been three complete cycles of UPR to date, running from 2008-2022, and the fourth cycle commenced in November 2022.

Importantly, within the UPR, the other 192 Member States can make recommendations to the state under review regarding how it can improve human rights on the ground. States accept or note recommendations and should then go on to implement those that are accepted. The recommendations are a fundamental part of the UPR process, yet they are not always formulated in a way that leads to positive change.

To identify good practice within the UPR recommendations, and opportunities for improvement, this article analyses the formulation of UPR recommendations made to the United Kingdom of Great Britain and Northern Ireland (UK) on domestic abuse in its first three cycles of UPR (2008, 2012, 2017). Domestic abuse has been selected as it is a prominent issue of human rights concern in the UK: it is estimated that 1.6 million women in England and Wales experienced domestic abuse in the year between March 2019 and 2020.² This situation was exacerbated by the COVID-19 pandemic and subsequent government-mandated lockdowns, with the Office for National Statistics ('ONS') reporting that '[t]he number of police recorded domestic abuse-related crimes in England and Wales rose 6% in the year ending March 2021 to 845,734.'³ Statistics show similar trends in Scotland and Northern Ireland.⁴ Equally, States, including the UK, have a responsibility to prevent gender-based violence, including domestic abuse,⁵ and international human rights law provides such protections for women globally. For international human rights to have an impact upon protecting women from domestic abuse, those international laws must be translated into domestic action. The UPR is a vehicle to do this.

² Office for National Statistics, 'Domestic Abuse in England and Wales Overview: November 2020' (25 November 2020) www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwalesoverview/november2020.

³ Id.

⁴ Scottish Government, 'Domestic Abuse: Statistics Recorded by the Police in Scotland – 2020/21' (30 November 2021) <www.gov.scot/publications/domestic-abuse-recorded-police-scotland-2020-21/pages/2/>; Police Service of Northern Ireland, 'Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland' (24 February 2022) <https://www.psni.police.uk/globalassets/inside-the-psni/our-statistics/domestic-abuse-statistics/2021-22/q3/domestic-abuse_-bulletin-dec-21.pdf>.

⁵ See, Adriene K. Wing, 'International Law and Feminism' in Robin West and Cynthia Grant Bowman, *Research Handbook on Feminist Jurisprudence* (Edward Elgar, 2019) 470; Irem Çağlar and Berna Akçali Gur, 'The State's Due Diligence Obligation', in Robin West and Cynthia Grant Bowman, *Research Handbook on Feminist Jurisprudence* (Edward Elgar, 2019) 492-93; *Opuz v. Turkey*, Application no. 33401/02, Council of Europe: European Court of Human Rights, 9 June 2009.

To identify good practice and opportunities for improvement in the formulation of recommendations, all recommendations received by the UK in its first three UPR cycles (in 2008, 2012, 2017) relating to domestic abuse were collated, categorising them into three themes: (1) Take action relating to Violence Against Women and Girls ('VAWG'), (2) Sign or ratify the Istanbul Convention, (3) Specific mention of domestic abuse. I then make practical suggestions for how recommendations can be improved to ensure action is taken on the ground. Namely, Member States should (1) use consistent terminology, (2) be specific when discussing aspects of violence against women and girls, (3) be fluid and adapt to the changing human rights landscape, (4) utilise recommendations provided by civil society organisations in their stakeholder submissions, and (5) consider applying an intersectional approach when making recommendations.

2. The Universal Periodic Review

The UPR involves intergovernmental and civil society input in the review of all 193 UN Member States' protection and promotion of human rights. Each review is recorded in publicly available documentation. This starts with the preparation of the three documents that form the basis of each review: the National Report, prepared by the State under Review, and the Compilation of UN Information and Summary of Stakeholders' Information, both of which are compiled by the Office of the High Commissioner for Human Rights ('OHCHR'). The review itself is then held in the UNHRC, wherein an interactive dialogue takes place between the State under Review and other States. As part of this, recommendations are provided by the UN Member States as to how the State under Review can better protect and promote human rights. The proceedings are written up into the Outcome Report, and the State under Review can then decide to accept or note each of the recommendations. The Outcome Report will thereafter be adopted at a UNHRC plenary session. Finally, the accepted recommendations should be implemented by the State under Review, with progress on implementation forming the basis of the next review. States may also submit a mid-term review, halfway between cycles, updating on their progress, but engagement with this is limited. With regards to the rest of the mechanism, the UPR has achieved success in attracting 100% cooperation from Member States to date, with the Fourth Cycle of reviews having commenced in November 2022.

Recommendations

The core focus of this article is the recommendations section of the UPR. This process is vital, as this is where the State under Review is provided with suggested ways in which it could improve on its human rights record from its peers – the other 192 Member States. Given the importance of this part of the UPR, it is imperative that it operates to its full potential, i.e., stronger recommendations will lead to more action on the ground and, ultimately, better human rights promotion and protection globally.

Scholars have previously considered the UPR recommendations, contemplating points including recommendations are too broad to have any real impact on human rights.⁶ In fact, of the 26 UPR Project at BCU reports submitted up to October 2022, in 18 of our reports we noted that recommendations were not specific enough to have impact.⁷ Other issues identified through research include a high number of recommendations lead to a lack of action by Member States,⁸ recommendations lack focus,⁹ and the hypocrisy of some States recommending on issues that also require resolving at home.¹⁰ Whilst there has been analyses of UPR recommendations previously, Fukuda calls for 'more scholarly attention' regarding the UPR generally, but 'its recommendations in particular.'¹¹

This article seeks to add to the current literature by providing an analysis of the formulation of UPR recommendations, using domestic abuse in the UK as the case study, and providing practical suggestions for how recommendations can be improved to ensure action is taken on the ground.

3. Case Study: Domestic Abuse in the UK

The case study selected to analyse the formulation of UPR recommendations is domestic abuse in the UK. The UK was chosen because it regularly engages with the UPR mechanism, both as a state under review and a recommending state: it received 406 recommendations across its first three cycles of UPR and, across the same three cycles, made 1,453 recommendations to other states.¹² The first three cycles of the UK's UPR were chosen for analysis as this provides a large sample of data to evaluate and make value judgements on. The fourth cycle commenced in late 2022, with the UK being reviewed in November 2022, but as the cycle is both in its infancy and incomplete, it did not form part of the data collection.

⁶ Alice Storey, 'Challenges and Opportunities for the UN Universal Periodic Review: A Case Study on Capital Punishment in the USA' (2021) 90 UMKC L Rev 129, 146-49; Amna Nazir, 'The Universal Periodic Review and the Death Penalty: A Case Study of Pakistan' (2020) 4(1) RSIL Law Review 126.

⁷ See, The UPR Project at BCU <www.bcu.ac.uk/law/research/centre-for-human-rights/consultancy/upr-project-at-bcu>.

⁸ Emma Hickey, 'The UN's Universal Periodic Review: Is it Adding Value and Improving the Human Rights Situation on the Ground?', 7 INT'L CONST. L.J. 6 (2013); Constance de la Vega & Tamara N. Lewis, 'Peer Review in the Mix: How the UPR Transforms Human Rights Discourse', in M Cherif Bassiouni & William A Schabas, *New Challenges for the UN Human Rights Machinery: What Future for the UN Treaty Body System and the Human Rights Council Procedures?*, INTERSENTIA 353, 381 (2011); Roland Chauville, 'The Universal Periodic Review's First Cycle: Successes and Failures', in HUMAN RIGHTS AND UNIVERSAL PERIODIC REVIEW: RITUALS AND RITUALISM at 87, 97 (Hilary Charlesworth & Emma Larking eds. Cambridge Univ. Press, 2015).

⁹ CTR. FOR ECON. & SOC. RTS. [CESR], *THE UNIVERSAL PERIODIC REVIEW: A SKEWED AGENDA? TRENDS ANALYSIS OF THE UPR'S COVERAGE OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS* 2 (2016), https://www.cesr.org/sites/default/files/CESR_ScPo_UPR_FINAL.pdf; Sangeeta Shah & Sandesh Sivakumaran, 'The Use of International Human Rights Law in the Universal Periodic Review', 21 HUM. RTS. L. REV. 264, 275 (2021).

¹⁰ Walter Kälin, 'Ritual and Ritualism at the Universal Periodic Review: A Preliminary Appraisal', in HUMAN RIGHTS AND THE UNIVERSAL PERIODIC REVIEW: RITUALS AND RITUALISM 25, 35-6 (Hilary Charlesworth & Emma Larking eds., 2014).

¹¹ Kazuo Fukuda, 'Human Rights Council's Universal Periodic Review as a Forum of Fighting for Borderline Recommendations? Lessons Learned from the Ground', 20 NW. J. HUM. RTS. 63, 118 (2022).

¹² UPR Info Database <https://upr-info-database.uwazi.io/en/library/>.

Domestic abuse was selected as the human rights issue for two key reasons, (1) it is a serious violation of human rights that has been raised during the UK's UPR, and (2) it is a key action point in the UK for both government and civil society.

For the first time, the Domestic Abuse Act (2021) ('DAA') has provided a statutory definition of domestic abuse in England and Wales. It provides that domestic abuse consists of physical or sexual abuse, violent or threatening behaviour, controlling or coercive behaviour, economic abuse, psychological, emotional or other abuse, and that 'it does not matter whether the behaviour consists of a single incident or a course of conduct.'¹³ The definition also states that the people involved must be aged 16 or over and be 'personally connected' to each other.¹⁴ Scotland and Northern Ireland provide similar definitions.¹⁵ Domestic abuse is also sometimes referred to as domestic violence, intimate partner violence, and comes under the umbrella terms of VAWG and gender-based violence. This article refers to 'domestic abuse' throughout, as this is the terminology used in the DAA, also acknowledging the fact that domestic abuse includes much more than just physical violence.

First, demonstrating the serious nature of domestic abuse, the ONS approximates that 1.6 million women aged 16 to 74 in the England and Wales experienced domestic abuse in the year ending March 2020.¹⁶ However, providing an accurate number of domestic abuse victims is difficult as many are unable to report the abuse. In Scotland, 'police recorded 65,251 incidents of domestic abuse in 2020-21.'¹⁷ This was a 4% rise from 2019-20, and 80% of cases involved a male perpetrator and female victim.¹⁸ In Northern Ireland, 'there were 32,219 domestic abuse incidents' in the year ending 31st December 2021, a 1.2% rise compared with 2020,¹⁹ and 'domestic abuse crimes' increased by 9%.²⁰

It is important to note that the UK is a 'union state' made up of the three nations, England, Wales, and Scotland, and the province of Northern Ireland.²¹ Owing to devolution, each nation provides its own laws and strategies to combat domestic abuse. Although these currently must comply with the Human Rights Act,²² this practice of devolution can cause fragmentation in its prevention of domestic abuse. The DAA, for example, only covers England and Wales, with some provisions of the Act applicable in England only. There are further existing laws, policies, and

¹³ Domestic Abuse Act 2021 Part 1, Section 1(3).

¹⁴ Id. at Part 1, Section 1(2). Although domestic abuse affects men as well as women, this research focuses predominantly on women, as they make up the majority of the victims of abuse.

¹⁵ See, Domestic Abuse (Scotland) Act (2018); Domestic Abuse and Civil Proceedings Act (Northern Ireland) (2021).

¹⁶ Office for National Statistics (2020) n 10 above, para 2.

¹⁷ Scottish Government (2021) n 12 above.

¹⁸ Id.

¹⁹ Police Service of Northern Ireland (2022) n 12 above.

²⁰ Id.

²¹ A Kay, 'Territorial Justice and Devolution', *British Journal of Politics and International Relations* 7 (2005): 544–60.

²² P Chaney, 'Human rights and social welfare pathologies: civil society perspectives on contemporary practice across UK jurisdictions – critical analysis of third cycle UPR data' (2020) *The International Journal of Human Rights*, 3. Note that the current Conservative government has laid out plans to replace the Human Rights Act with a Bill of Rights: www.huffingtonpost.co.uk/entry/queens-speech-2022-the-key-new-laws-announced_uk_627a1a72e4b03ca83645e9bf last accessed 18 May 2022.

mechanisms across the UK that seek to protect women from domestic abuse and punish perpetrators.²³

The effect of the COVID-19 global pandemic on domestic abuse is a particular concern, both globally and specifically in the UK. Many practitioners and scholars agreed that the COVID-19 outbreak, and the subsequent government-imposed lockdowns, would increase the risk of domestic abuse at home due to forced quarantine with potentially abusive family members.²⁴ In fact, '[t]he UK's largest domestic abuse charity, Refuge...reported a 700% increase in calls to its helpline in a single day, while a separate helpline for perpetrators of domestic abuse seeking help to change their behaviour received 25% more calls after the start of the COVID-19 lockdown.'²⁵ Margolis has also contended that '[t]he pandemic has exposed longstanding flaws in the UK Government's approach to domestic violence.'²⁶ In particular, it has exacerbated issues such as a lack of funding, 'including cuts to domestic abuse services such as refuges, and cuts to police and healthcare budgets.'²⁷

Second, tackling and preventing domestic abuse is a key action for both the UK government and civil society. On 30th March 2022, the government launched its 'Tackling Domestic Abuse Plan' which aims to 'drive down the prevalence of domestic abuse and domestic homicide and provide victims and survivors with the support they need.'²⁸ Civil society organisations such as Women's Aid, Refuge, and the Centre for Women's Justice work tirelessly to provide support for victims and survivors and to lobby the government into taking action.²⁹ This article advocates for using UPR recommendations, when they are formulated appropriately, to further action against domestic abuse in the UK.

4. Analysis

Analysing the UK UPRs: Method

Within the UPR, UN Member States have made recommendations to the UK on the issue of domestic abuse (and other related issues, such as the umbrella term of 'VAWG'). Where the UK has accepted such recommendations, the government should then go on to implement them in practice. To identify good practice within the UPR

²³ For an excellent overview of civil and criminal remedies, see Jonathan Herring, *Family Law* (Pearson, 10th Edition, 2021) 309-361.

²⁴ C Augusto de Lima et al, 'COVID-19: Isolations, Quarantines and Domestic Violence in Rural Areas' (2020) *SciMedicine Journal* Vol 2 No 1.

²⁵ Mark Townsend, 'Revealed: Surge in Domestic Violence During COVID-19 Crisis' *The Observer* (12 April 2020) www.theguardian.com/society/2020/apr/12/domestic-violence-surges-seven-hundred-per-cent-uk-coronavirus.

²⁶ Human Rights Watch, 'UK Failing Domestic Abuse Victims in Pandemic' (8 June 2020) www.hrw.org/news/2020/06/08/uk-failing-domestic-abuse-victims-pandemic.

²⁷ Storey A et. al., 'United Kingdom Universal Periodic Review Stakeholder Submission', *The UPR Project at BCU* (2022) para 43.

²⁸ UK Government, 'Tackling Domestic Abuse Plan' (1 September 2022) <www.gov.uk/government/publications/tackling-domestic-abuse-plan>.

²⁹ WA, Refuge, CWJ

recommendations, and opportunities for improvement, this article analyses the formulation of UPR recommendations made to the UK on domestic abuse in its first three cycles of UPR (2008, 2012, 2017). To do this, all recommendations received by the UK in its first three UPR cycles relating to domestic abuse were collated, categorising them into three themes: (1) take action relating to Violence Against Women and Girls, (2) sign or ratify the Istanbul Convention, (3) specific mention of domestic abuse. The government's responses to these recommendations and whether it had engaged in any implementation was also identified. This created the dataset.

Analysing the UK UPRs: Findings

The UK received 387 recommendations across all three cycles, with just 21 relating to domestic abuse or VAWG more generally. One recommendation was made in the first cycle, which can be excused given that the UPR was in its very early days of operation and only 28 recommendations were provided to the UK in total. Six recommendations were made in 2012 on domestic abuse or VAWG and 13 in 2017. Analysis of the UPR recommendations on domestic abuse in the UK and any responses comes under three themes and is set out below: (1) take action relating to Violence Against Women and Girls (ten recommendations), (2) sign or ratify the Istanbul Convention (seven recommendations), (3) specific mention of domestic abuse (four recommendations).

A. Take Action on Violence Against Women and Girls

The Declaration on the Elimination of Violence Against Women defines VAWG as 'any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.'³⁰ This definition covers a wide range of violence, including but not limited to, domestic abuse, rape, female genital mutilation, and forced marriage. Across the UK's first three UPRs, ten recommendations were made on VAWG.

As demonstrated below, the recommendations made regarding VAWG were very broad in nature, leading to a lack of focus in the UK government's response, and ultimately very minimal action on this important issue. In part, this can be attributed to the terminology used and this article suggests a practical way in which Member States can have more impact through targeted recommendations that use consistent terminology.

Recommendations

³⁰ DEVAW (1994) n 33 above.

In 2012, Cuba and Malaysia made recommendations asking the UK to ‘combat’ violence against women.³¹ The UK accepted both of these recommendations,³² noting the submission of its report to CEDAW in 2011 and that its ‘[v]iolence against women and Girls Action Plan also specifically commits the UK to strongly support the ratification of CEDAW and to lobby for the full implementation of the Convention.’³³ Pointing to the individual nations, the UK noted that Scotland’s ‘violence against women strategy ‘Safer Lives, Changed Lives’ is currently being refreshed to give a sharper focus on the prevention and early intervention, data and outcome measurement and the impact on minority ethnic women.’³⁴ Despite the broad nature of the recommendations, the government’s response points to the intersection between domestic abuse and ethnic minorities. However, in practice, minority women are not fully protected in the UK as migrant women were omitted from the DAA, as discussed below.

Two recommendations focused upon the UK’s Action Plan relating to VAWG in 2012, with Brazil asking the UK to ‘[a]dopt a national strategy to combat all forms of violence against women and girls’³⁵ and Colombia recommending the UK ‘[c]ontinue making progress in implementing the Action Plan on violence against women and girls.’³⁶ Both recommendations were accepted,³⁷ but there was a lack of intersectional focus in the UK’s response, with the government noting that ‘[t]he updated Action Plan was launched on 8th March 2012. More than half the original actions have been completed, with a further 100 actions to be delivered, with more emphasis on the importance of prevention.’³⁸ Yet, the VAWG 2016-2020 Action Plan still, as of July 2021, had actions that had not been met.³⁹ Instead of providing broad, sweeping recommendations, they could instead focus upon how the most recent version of the Action Plan⁴⁰ will affect women in practice, identifying the specific types of VAWG within the Action Plan and making recommendations on them.

³¹ UNHRC, ‘Report of the Working Group on the Universal Periodic Review – United Kingdom of Great Britain and Northern Ireland’ (6 July 2012) UN Doc A/HRC/21/9 [hereinafter referred to as ‘Report of the Working Group 2012’] Cuba: ‘Continue efforts to combat discrimination on any ground and violence against women’ para 110.51. Malaysia: ‘Take more effective measures to combat all forms of violence against women and girls and to ensure that perpetrators of violence are taken to justice and punished’ para 110.71.

³² UNHRC, ‘Report of the Working Group on the Universal Periodic Review – United Kingdom of Great Britain and Northern Ireland Addendum’ (17 September 2012) UN Doc A/HRC/21/9/Add1 [hereinafter referred to as ‘Report of the Working Group Addendum 2012’] 37, 38.

³³ Id 38.

³⁴ Id.

³⁵ Report of the Working Group 2012 n 78 above, para 110.69.

³⁶ Id para 110.70.

³⁷ Report of the Working Group Addendum 2012 n 79 above, 36.

³⁸ Id.

³⁹ UK Home Office, ‘Ending Violence against Women and Girls Strategy Action Plan Update’ (Updated 21 July 2021) <www.gov.uk/government/publications/strategy-to-end-violence-against-women-and-girls-2016-to-2020/ending-violence-against-women-and-girls-strategy-action-plan-update-march-2019-accessible-version>.

⁴⁰ UK Government, ‘Tackling Violence against Women and Girls’ (July 2021) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1033934/Tackling_Violence_Against_Women_and_Girls_Strategy_-_July_2021.pdf>.

In the 2017 review, five recommendations were made in relation to VAWG, asking the UK to ‘prevent’ or ‘combat’ VAWG.⁴¹ All of these recommendations were supported,⁴² yet the UK Government did not distinguish between them, instead providing one lengthy response to all five recommendations, detailing the actions taken across the four nations. In relation to domestic abuse, the UK Government pointed to the ‘new offence of domestic abuse covering controlling and coercive behaviour’ which is criminalised in s.76 Serious Crime Act 2015, and also hailed what was then the Domestic Abuse Bill.⁴³ Moreover, the government noted action across the other nations, finding that in Wales there is ‘the National Training Framework for Wales on Violence Against Women and Domestic abuse and Sexual Violence (VAWDSV)’⁴⁴ and the ‘Northern Ireland Department of Health and Department of Justice continue to fund...the Multi-Agency Risk Assessment Conferences for high risk victims of domestic violence.’⁴⁵ The broad nature of the recommendations led to a lack of detail provided by the government. Ideally, it would have responded identifying any specific frameworks that are in place to support those facing domestic abuse and VAWG, including successes and challenges faced. This allows implementation to be monitored more closely, including by civil society organisations.

Improving the Recommendations

By using the umbrella term ‘VAWG’ in their recommendations and not specifying the type of violence they are referring to, Member States fail to hold the UK Government to account regarding domestic abuse (and other forms of VAWG). This is because approaches required to tackle each individual type of VAWG will be different, and so by providing broad recommendations asking the UK to deal with VAWG is not distinct enough to have an impact in practice. As Strid et al argue, ‘[t]he visibility of the interrelations and intersections of multiple inequalities improves the quality of violence against women policy by enabling the making and implementation of policy that concretely targets the *specific causes and effects of the different forms of violence against women*.’⁴⁶ This also affects men, as the UK Government is now bracketing male victims within the general VAWG strategy,⁴⁷ a move which has been criticised by organisations such as Respect UK as failing male victims of violence.⁴⁸ Ideally, Member States should use the term ‘domestic abuse’ when making recommendations on that issue, in line with the terminology used by the UK government.

⁴¹ UNHRC, ‘Report of the Working Group on the Universal Periodic Review – United Kingdom of Great Britain and Northern Ireland’ (14 July 2017) UN Doc A/HRC/36/9 [hereinafter referred to as ‘Report of the Working Group 2017’] para 134.83 (Paraguay); para 134.182 (Slovenia); para 134.184 (Bosnia and Herzegovina); para 134.186 (China); para 134.180 (Libya).

⁴² UNHRC, ‘Report of the Working Group on the Universal Periodic Review – United Kingdom of Great Britain and Northern Ireland Annex’ (29 August 2017) [hereinafter referred to as ‘Report of the Working Group Annex 2017’] 33.

⁴³ Id 74-78.

⁴⁴ Id.

⁴⁵ Id.

⁴⁶ Strid et. al. (2013) n 68 above, 575. Emphasis added.

⁴⁷ UK Government, ‘Supporting Male Victims of Crimes Considered Violence Against Women and Girls’ (March 2022) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1064154/Supporting_Male_Victims_2022.pdf>.

⁴⁸ Respect UK, Twitter Post (7 April 2022) <<https://twitter.com/RespectUK/status/1512050069553438725>>.

B. Sign or Ratify the Istanbul Convention

The Council of Europe's Convention on preventing and combating violence against women and domestic violence (2014) ('Istanbul Convention') is an example of how international law seeks to prevent domestic abuse. Open to all Council of Europe States, the Istanbul Convention provides a framework for protecting women from all types of violence, stipulating practical solutions including support services and data collection that must be acted upon.⁴⁹

Recommendations

Following the UK's second UPR cycle in 2012, wherein two recommendations from France⁵⁰ and Australia⁵¹ asked the UK to sign and ratify the Istanbul Convention, the UK became a signatory to it.⁵² Whilst the UK Government stated that it 'remains fully committed to ratifying the Convention and to taking the measures necessary to enable us to do so,'⁵³ at that time, no action was taken to ratify the Istanbul Convention.

As such, in 2017, the focus shifted directly to ratification of the Istanbul Convention, with six recommendations in total. Five recommendations, from Italy,⁵⁴ Montenegro,⁵⁵ Spain,⁵⁶ Bosnia and Herzegovina,⁵⁷ and Turkey,⁵⁸ asked the UK to ratify the Istanbul Convention. Finland made the same recommendation, but went into more detail, asking the UK to '[m]ake the necessary legal, policy and practice-related changes to enable the ratification of the...Istanbul Convention and dedicate sufficient resources to central, devolved and local authorities to ensure its effective implementation.'⁵⁹ The UK accepted all of these recommendations and provided the same response to them:

The UK signed the Istanbul Convention in 2012 to show its strong commitment to tackling VAWG. The UK remains committed to ratifying the Istanbul Convention. In most respects, the measures already in place in the UK to protect women and girls from violence comply with or go further than the Convention requires. In order to be compliant with Article 44 of the Convention, the UK must take extra-territorial jurisdiction (ETJ) over certain offences if committed abroad by UK nationals. The UK Government will introduce the ETJ measures

⁴⁹ Council of Europe, *The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, November 2014, ISBN 978-92-871-7990-6 [hereinafter referred to as 'Istanbul Convention'].

⁵⁰ Report of the Working Group 2012 n 78 above, para 110.29.

⁵¹ Id para 110.74.

⁵² UK Home Office, 'Istanbul Convention Ratification: 2019 Progress on Report' (2019) www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2019-10-31/HCWS58/.

⁵³ Id.

⁵⁴ Report of the Working Group 2017 n 89 above, para 134.43.

⁵⁵ Id para 134.44.

⁵⁶ Id para 134.45.

⁵⁷ Id para 134.47.

⁵⁸ Id para 134.46.

⁵⁹ Id para 134.48.

necessary for compliance for England and Wales as part of the forthcoming Domestic Abuse Bill.⁶⁰

In 2021, through the passing of the DAA, this issue of ETJ was resolved.⁶¹ Yet, after settling the Article 44 problem, the UK Government found another point to hold up ratification of the Istanbul Convention, regarding its response to migrant victims:

The issue of support for migrant victims of domestic abuse was one of those raised by the Joint Committee [on Human Rights] on the Draft Domestic Abuse Bill in 2019. In our response, the Government committed to 'review the overall response to migrant victims of domestic abuse, taking careful account of evidence provided by stakeholders on this issue' and taking into account any obligations we may have under the Istanbul Convention regarding migrant victims. This relates to Articles 4(3) (to the extent that it relates to non-discrimination on the grounds of migrant or refugee status) and 59 of the Convention in particular.⁶²

It appeared that the UK was stalling in terms of ratifying the Istanbul Convention, however, on 17 May 2022, the UK's Home Secretary announced that the UK would ratify the Istanbul Convention by 31 July 2022.⁶³ This seemed to be a big step towards improving the protection of women from domestic abuse in the UK, yet it was also announced that two reservations would be attached to the ratification. In international law, a 'reservation' is defined as 'a unilateral statement...made by a state...whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State.'⁶⁴

The Istanbul Convention came into force in the UK on 1st November 2022, as planned.⁶⁵ Of particular concern is the reservation related to the protection of migrant women. The Home Secretary stated that it would attach:

a reservation on Article 59, which relates to migrant victims, to enable us to ratify the Convention before the evaluation of the Support for Migrant Victims scheme concludes, at which point we will consider the policy issues involved substantively, and whether that reservation should continue.

⁶⁰ Report of the Working Group Annex 2017 n 90 above, 20.

⁶¹ UK Home Office, 'Istanbul Convention Ratification: 5th Progress Report 2021' (1 November 2021) <www.gov.uk/government/publications/istanbul-convention-implementation-progress-report-2021/istanbul-convention-5th-progress-report-2021-accessible-web-version>.

⁶² *Id.*

⁶³ UK Parliament, 'Ratification of the Istanbul Convention' (17 May 2022) <<https://questions-statements.parliament.uk/written-statements/detail/2022-05-17/hcws34>>.

⁶⁴ Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force on 27 January 1980) 1155 UNTS 331; 8 ILM 679 (1969) *Article 2(d)*.

⁶⁵ Council of Europe, 'The United Kingdom Ratifies the Istanbul Convention' (21 July 2022) <www.coe.int/en/web/istanbul-convention/-/the-united-kingdom-ratifies-the-istanbul-convention>.

The UK Government's approach to protecting migrant women from domestic abuse has been widely criticised.⁶⁶ Disappointingly, despite having the opportunity to rectify this when the government enacted the DAA in 2021, migrant women were once again overlooked.⁶⁷ Migrant women are particularly vulnerable to domestic abuse for a number of reasons. They will often have come to the UK on a 'spousal visa,' meaning that their immigration status could be reliant upon women staying with their abuser, along with being financially reliant upon their spouse.⁶⁸ This has been identified as 'immigration abuse' by the new Domestic Abuse Commissioner, Nicole Jacobs.⁶⁹ Equally, migrant women are often wary of law enforcement, often for good reason as 'police forces have been reporting abused women to immigration enforcement.'⁷⁰ Jacobs has recommended that there should be a 'firewall' in place between police and the Home Office, to allow migrant women the opportunity to report abuse without fearing for their immigration status.⁷¹ Furthermore, English is often not the first language of migrant woman, immediately putting a language barrier in place for migrant women reporting abuse.⁷² This creates a distinct form of abuse, unique to migrant women.

By attaching this reservation to its ratification, the UK is failing to address the discrimination faced by migrant women who are being abused. The UK Government must ensure that within its evaluation of the Support for Migrant Victims scheme it provides a clear way forward for protecting migrant women, including amending domestic laws and practice, in order to remove the reservation as soon as possible.

Improving the Recommendations

There is a correlation between numerous UPR recommendations and the UK's ratification of the Istanbul Convention. Whilst the UPR alone will not have led to this important decision, it will have been one part of a wider movement for ratification. It is important that the UPR recommendations are fluid and adapt to the changing human rights situation – for example, instead of asking the UK to sign or ratify the Convention, it must focus on the limitations (through the reservations it will attach) and how to tackle them. Spain did this to some extent during the UK's Fourth Cycle UPR in November 2022, asking the UK to 'lift your reservation to Article 59 of the Istanbul Convention, so that migrant women can receive the same support and protection.'⁷³

⁶⁶ S Anitha, Neither safety nor justice: the UK Government response to domestic violence against immigrant women (2008) *Journal of Social Welfare and Family Law*, 30:3, 189-202; S Graca, 'Domestic violence policy and legislation in the UK: a discussion of immigrant women's vulnerabilities' (2017) *European Journal of Current Legal Issues* 22 (1); S El-Abani, S Jacobs, K Chadwick & S Arun, 'Migration and attitudes towards domestic violence against women: a case study of Libyan migrants in the UK' (2020) *Migration and Development*, 9:1, 111-130.

⁶⁷ Centre for Women's Justice, 'Domestic Abuse Bill' <www.centreforwomensjustice.org.uk/dabill> last accessed 18 May 2022.

⁶⁸ Centre for Women's Justice, 'Migrant Abuse Victims Need More Support in Landmark Domestic Abuse Bill' (23 July 2019) <www.centreforwomensjustice.org.uk/news/2019/7/23/migrant-abuse-victims-need-more-support-in-landmark-domestic-abuse-bill>.

⁶⁹ Domestic Abuse Commissioner, 'Safety Before Status: Improving Pathways to Support for Migrant Victims of Domestic Abuse' (2021) <<https://domesticabusecommissioner.uk/wp-content/uploads/2021/10/Safety-Before-Status-Report-2021.pdf>>.

⁷⁰ Centre for Women's Justice, 'Domestic Abuse Bill' n 131 above.

⁷¹ Domestic Abuse Commissioner (2021) n 133 above, 38.

⁷² Id 26.

⁷³ UK UPR Fourth Cycle – [link to UPR Project at BCU's record to be added](#). Full report of the working group is not yet available at the time of writing.

This is a very positive move, albeit from just one Member State. To improve such recommendations further,

Moreover, the wider issue of the intersection of domestic abuse and migrant women should be a key issue for Member States to address when formulating UPR recommendations. During the UK's first three UPRs, the particular experiences of migrant women suffering domestic abuse was discussed elsewhere in the UK's UPRs, predominantly by CSOs. This means that the information is available to Member States, they just need to use it when formulating their recommendations. In 2008, Amnesty International highlighted the fact that women who are subject to immigration control and have been subject to domestic abuse find it 'almost impossible' to access social benefits.⁷⁴ Indicating the positive impact the UPR can have, in 2012, Amnesty International praised the fact that the 'Call to End Violence Against Women and Girls' had changed the rule of no access to public funds for migrant women.⁷⁵ In 2012 the Northern Ireland Human Rights Commission noted a particular problem with migrant victims of domestic abuse accessing housing,⁷⁶ and the Equality and Human Rights Commission highlighted the concern that migration rules lead to women staying in abusive relationships due to their insecure migration status.⁷⁷ In 2017, Amnesty International recommended that the UK should '[e]xtend domestic violence protections in the Immigration Rules and policy to those seeking to escape abusive partners with limited rights to stay in the UK.'⁷⁸

As such, where possible, Member States should utilise recommendations made by CSOs. Damian Etone, in his study on African States and the UPR, found that many States already do this,⁷⁹ and so this approach could also be adopted in the context of domestic abuse in the UK. This is particularly important because, as Montoya has uncovered an issue in how European countries have dealt with intersectional abuse of migrant women, finding that they can incite further racism, whilst simultaneously failing to 'provide any tangible measures, such as better immigration policies or culturally sensitive public services that actually help migrant women and racial/ethnic minority women.'⁸⁰ Governments should not blindly implement policies without understanding the implications and efficacy of them. CSOs can provide their expertise on this issue through their stakeholder submissions, with Member States being able to use their template recommendations during the UPR.

⁷⁴ UNHRC, 'Summary of Stakeholders Information – United Kingdom' (11 March 2009) UN Doc A/HRC/WG.6/1/GBR/3 para 34.

⁷⁵ Amnesty International, 'UK Universal Periodic Review Stakeholder Submission' (2012) <www.ohchr.org/en/hr-bodies/upr/uprgb-stakeholders-info-s13> para 2, last accessed 18 May 2022.

⁷⁶ NIHRC, 'UK Universal Periodic Review Stakeholder Submission' (2012) <www.ohchr.org/en/hr-bodies/upr/uprgb-stakeholders-info-s13> para 43, last accessed 18 May 2022.

⁷⁷ EHRC, Amnesty International, 'UK Universal Periodic Review Stakeholder Submission' (2012) <www.ohchr.org/en/hr-bodies/upr/uprgb-stakeholders-info-s13> para 15, last accessed 18 May 2022.

⁷⁸ Amnesty International, 'UK Universal Periodic Review Stakeholder Submission' (2017) <www.ohchr.org/en/hr-bodies/upr/uprgb-stakeholders-info-s27> 8, last accessed 18 May 2022.

⁷⁹ D Etone, *The Human Rights Council: The Impact of the Universal Periodic Review in Africa* (Routledge, 2021) 144.

⁸⁰ C Montoya, 'Institutions', in Lisa Disch and Mary Hawkesworth, *The Oxford Handbook of Feminist Theory* (OUP 2016) 381.

C. Specific Mention of Domestic Abuse

Recommendations

The more specific a UPR recommendation is, the more likely it will lead to positive change on the ground. Therefore, recommendations that directly refer to protecting women from domestic abuse should be the most effective. Four recommendations made specific reference to domestic abuse (albeit using the term ‘domestic violence.’) These recommendations were made in 2017, demonstrating the progressive evolution of the UPR and Member States’ understanding of the need for specificity. Maldives recommended the UK should ‘[a]dopt national legislation, especially in Northern Ireland, on domestic violence protection, that ensures all cases of domestic violence are thoroughly investigated and that perpetrators are prosecuted.’⁸¹ Sudan and Indonesia suggested that the UK should ‘combat’⁸² or ‘reduce’⁸³ domestic abuse. Czechia’s recommendation focused on the impact of domestic abuse: ‘[s]tep up its efforts in fighting domestic violence and take measures to prevent secondary victimization and the negative impact of domestic violence on children.’⁸⁴ The UK Government accepted the four recommendations, providing the same lengthy general VAWG response already discussed above.⁸⁵

Whilst these recommendations are welcomed, they have not led to any specific change for women facing domestic abuse in the UK. One possible reason why is because the recommendations consider ‘domestic abuse’ as one homogenous issue that is experienced by everyone in the same way. However, we know this is not the case. As Beth Goldblatt asserted, domestic abuse ‘cuts across class, touching both rich and poor. It is clear, however, that poverty and unequal access to resources contribute to the conditions that make women vulnerable to violence.’⁸⁶ Cynthia Bowman has also added that ‘[t]he necessity to pay attention to issues of race and class, as well as gender, have become major themes in modern feminist legal theory.’⁸⁷ However, these issues must also be handled sensitively, as Celeste Montoya noted, ‘[p]olicies designed to address the oppression of marginalized groups may worsen the situation of the worst off, when intersectional complexities are not explicitly considered.’⁸⁸ Moreover, scholars in the Global South have led the way in terms of minorities and intersectionality, as they ‘rejected the concept of a global sisterhood and believed that it had the effect of universalizing the experience of gender in ways that did not capture their own experiences.’⁸⁹

⁸¹ Report of the Working Group 2017 n 89 above, para 134.181.

⁸² Id para 134.183.

⁸³ Id para 134.185.

⁸⁴ Id para 134.187.

⁸⁵ Report of the Working Group Annex 2017 n 90 above, 74-78.

⁸⁶ B Goldblatt, Violence against women and social and economic rights: deepening the connections (in S Harris-Rimmer and K Ogg (eds) *Research Handbook on Feminist Engagement with International Law* (Edward Elgar, 2019) 2.

⁸⁷ C Grant Bowman ‘Socialist Feminist Legal Theory: A Plea’ in Robin West and Cynthia Grant Bowman, *Research Handbook on Feminist Jurisprudence* (Edward Elgar, 2019) 102.

⁸⁸ C Montoya, ‘Institutions’, in L Disch and M Hawkesworth, *The Oxford Handbook of Feminist Theory* (OUP 2016) 381.

⁸⁹ Bond (2021) n 16 above, 9.

Improving the Recommendations

It has already been noted throughout the UK's three UPR cycles, predominantly by CSOs, that many different minorities and marginalised groups experience domestic abuse, including migrants, the Gypsy, Roma, and Traveller community, the LGBTQ+ community, those with disabilities, elderly people, and those living in poverty. When considering that different categories of women experience domestic abuse differently, this engages with the concept of 'intersectionality.' Spurred on by the one-dimensional nature of liberal feminism, Kimberle Crenshaw coined the term intersectionality to describe how different aspects of identity intersect to create distinct ways of discriminating against or oppressing women.⁹⁰ This can include gender, race, class, sexuality, disability, age, socio-economic status etc. In particular, intersectionality identifies that these characteristics are intrinsically linked to create a new form of discrimination,⁹¹ not that they are separate or cumulative forms of discrimination, but that the person is discriminated against because of their interlinked facets of identity.⁹²

Focusing upon minority and marginalised groups that are particularly vulnerable to domestic abuse, and the intersectional nature of the abuse they suffer, would be a key improvement to UPR recommendations on this issue. This information can be identified from the stakeholder summary and individual reports. Below is an example of how this could work for two categories of affected women: (1) gypsy, traveller, and Roma ('GRT') women and (2) trans women, yet the suggestion can be applied to all categories of women who face domestic abuse.

Gypsy, Traveller, and Roma women

Similar to migrant women, women from a Gypsy, Roma, or Traveller ('GRT') background are also vulnerable to domestic abuse. Racist and discriminatory attitudes and practices towards the GRT community⁹³ more generally exacerbates this issue. Research has found that discrimination against the GRT community is viewed as the 'last acceptable' form of racism in the UK,⁹⁴ despite their protected status under the Equality Act 2010. A survey conducted by the University of Birmingham and YouGov, found that 44.6% viewed the GRT community negatively.⁹⁵

⁹⁰ See, Crenshaw (1989) n 2 above; Crenshaw (1991) n 2 above. While Crenshaw coined the term itself, the notion of intersectionality has been considered by women across the world for centuries.

⁹¹ L Sosa, *Intersectionality in the Human Rights Legal Framework on Violence against Women* (Cambridge University Press, 2017) 17-18.

⁹² J Bond, *Global Intersectionality and Contemporary Human Rights* (Oxford University Press, 2021) 173.

⁹³ P Gavin, 'Prison is the worst place a Traveller could be: the experiences of Irish Travellers in prison in England and Wales' (2019) *Irish Probation Journal*, 16. pp. 135-152; Z James, 'Gypsies' and Travellers' lived experience of harm: A critical hate studies perspective' (2020) *Theoretical Criminology* 24(3):502-520.

⁹⁴ P Hutchinson et. al., 'Predictors of 'the last acceptable racism': Group threats and public attitudes towards Gypsies and Travellers' (2018) Vol 48(5) 237-247.

⁹⁵ L Dowd, "Death threats are a way of life: Gypsies and Irish Travellers and Muslims 'least-liked' in UK, survey finds' *Sky News* (24 January 2022) <<https://news.sky.com/story/death-threats-are-a-way-of-life-gypsies-and-irish-travellers-and-muslims-least-liked-in-uk-survey-finds-12524098>>.

Multiple UPR recommendations were made regarding eradicating racism and discrimination towards the GRT community generally in the UK's 2017 review, from Guatemala, Indonesia, Venezuela, Lebanon, and Spain.⁹⁶ This could quite easily translate into recommendations regarding GRT women's experiences of domestic abuse, especially as some information has already been provided by CSOs in the UK's UPR. For example, in its 2012 Stakeholder submission, the UK Joint Committee on Women highlighted that '61% of married English Gypsy women and 81% of Irish Travellers had experienced domestic abuse, most of which was more severe and sustained violence than those within mainstream communities.'⁹⁷

In 2017, the National Roma Integration Strategy ('NGTRIS') highlighted the issue of the gypsy and GRT community experiencing domestic abuse.⁹⁸ It praised the fact that interest in this issue 'has grown amongst advocacy groups and researchers who have in recent years undertaken important work' including on domestic abuse.⁹⁹ There is a significant opportunity for academics to engage further with the UPR, using it as a platform to disseminate their academic research to a practice-based audience.¹⁰⁰

It would be more effective for Member States to use the information provided by CSOs to formulate specific recommendations to ensure action is taken to protect GRT women from domestic abuse, rather than providing recommendations on domestic abuse generally. This is because it would encourage the government to consider targeted approaches to this particular form of intersectional abuse, highlighting that the same approach for all women will not work in practice.

Trans women

Another group of women who are often overlooked in terms of protection from domestic abuse is transgender women ('trans women'). Disappointingly, the UK Government does not collect LGBTQ+ specific data in relation to domestic abuse prevalence. However, in 2018, Stonewall found that 1 in 6 trans women experienced domestic abuse in the UK.¹⁰¹ A 2020 study in the US concluded that '[t]ransgender

⁹⁶ Report of the Working Group 2017 n 89 above, para 134.89 Elaborate a general strategy, in consultation with members of the Gypsy, Traveller and Roma communities, to ensure a systematic and coherent approach to address the problems that such communities continue to face, including discrimination and stigmatization (Guatemala); para 134.90 Ensure that the Government of the United Kingdom takes all necessary steps to prevent all kinds of discrimination directed at minorities in the community namely the Roma community (Indonesia); para 134.91 That the State and devolved governments collaborate in the approval of an integration strategy for Gypsies, Travellers and Roma people in all the United Kingdom (Bolivarian Republic of Venezuela); para 134.92 Strengthen and activate existing laws and legislation in the field of combating discrimination and all forms of racism and make further efforts to combat discrimination against Gypsies, nomads and Roma (Lebanon); para 134.84 Dedicate more resources to fight against negative stereotypes in the media, against the most affected minority groups (lesbian, gay, bisexual, transgender and intersex persons, Gypsies, Muslims, refugees and persons granted asylum) (Spain).

⁹⁷ UK Joint Committee on Women, 'UK Universal Periodic Review Stakeholder Submission' (2012) <www.ohchr.org/en/hr-bodies/upr/upr-rgb-stakeholders-info-s13> 12, last accessed 18 May 2022.

⁹⁸ NFGGLG, 'UK Universal Periodic Review Stakeholder Submission – Annex 2' (2017) <www.ohchr.org/en/hr-bodies/upr/upr-rgb-stakeholders-info-s27> 40-41, last accessed 18 May 2022.

⁹⁹ Id.

¹⁰⁰ See, the UPR Project at BCU as an example, Storey et. al. (2022) n 70 above; A Storey, 'Engaging with the UN Human Rights Council's Universal Periodic Review as an Academic' (2020) *Juris Poiesis*, Vol. 23, No. 32, 662-664.

¹⁰¹ Stonewall, 'Supporting Trans Women in Domestic and Sexual Violence Services' (2018) <www.stonewall.org.uk/system/files/stonewall_and_nfpsynergy_report.pdf>.

individuals experience a dramatically higher prevalence of [domestic abuse] victimization compared with cisgender individuals.¹⁰²

Further problems arise in terms of trans women seeking support for domestic abuse, as ‘[i]n the UK, there are no specific domestic abuse refuges for the LGBTQ+ community, with only two refuges offering specialised support for LGBTQ+ survivors and both are in London.’¹⁰³ Similar to the GRT community, transgender people are discriminated against more generally. This is also reflected in the support for trans women facing domestic abuse, as a high-profile domestic abuse organisation told one worker, ‘[i]f they don’t sound like a woman, it doesn’t matter if they say they are, hang up. We’re not supporting them.’¹⁰⁴

Comparable to Montoya’s warning regarding migrant women, Faye cautions against the solution simply being to create refuges for the community: ‘[w]hile specialist provision for trans survivors is to be encouraged, there is a difference between advocating for tailored services designed to help people with specific experiences and championing enforced segregation.’¹⁰⁵ Instead, the UPR Project at BCU’s UK Stakeholder Report argues, ‘[a] sensible and evidence-based approach should be taken, and most importantly the UK Government should implement any actions related to this issue in conjunction with representatives from the LGBTQ+ community.’¹⁰⁶

Trans women were discussed in the UK’s 2017 UPR in a general context. The Special Rapporteur on violence against women was cited in the Compilation Report, discussing trans women in terms of ‘entrenched discriminatory practices’¹⁰⁷ and Montenegro mentioned trans women during the 2017 interactive dialogue, in terms of ‘empowering’ all women and ‘enhancing gender policies.’¹⁰⁸ Whilst it is positive that a Member State has discussed trans women during the interactive dialogue, these discussions must be translated into recommendations to allow action and implementation to be monitored. There was no discussion of the intersectional discrimination faced by trans women who suffer domestic abuse in the UK’s first three cycles. This is something the UPR Project at BCU has sought to rectify by providing an overview of the issue along with suggested recommendations for Member States to use in the Fourth Cycle review.¹⁰⁹

5. Conclusion

¹⁰² Peitzmeier et. al., ‘Intimate Partner Violence in Transgender Populations: Systematic Review and Meta-analysis of Prevalence and Correlates’ (12 August 2020) *American Journal of Public Health* 110, e1_e14.

¹⁰³ Storey et. al. (2022) n 70 above, para 45.

¹⁰⁴ Moya Lothian McLean, ‘If they Sound Like a Man, Hang Up’ – How Transphobia became Rife in the Gender-based Violence Sector’ *Gal-dem* (1 February 2021) <<https://gal-dem.com/transphobia-in-sexual-violence-services/>>.

¹⁰⁵ Shon Faye, *The Transgender Issue* (Penguin, 2021) 59.

¹⁰⁶ Storey et. al. (2022) n 70 above, para 46.

¹⁰⁷ UNHRC, ‘Compilation of UN Information – United Kingdom’ (22 February 2017) UN Doc A/HRC/WG6/27/GBR/2 para 13.

¹⁰⁸ Report of the Working Group 2017 n 89 above, para 44.

¹⁰⁹ Storey et. al. (2022) n 70 above.

Improving UPR recommendations to ensure they have a positive effect on human rights on the ground is not a radical argument. The aim of this article is to provide practical suggestions as to how this can actually be achieved, using domestic abuse in the UK as a case study.

First, Member States should avoid using the phrase ‘violence against women and girls’ without further specification, instead considering how to target specific types of VAWG that affect different categories of women. UPR Info has advocated for a SMART approach to UPR recommendations (specific, measurable, achievable, realistic, timebound).¹¹⁰ Furthermore, consistent terminology should be used when referring to a specific human rights issue. For example, here, domestic abuse is the chosen terminology as it reflects the UK’s own references.

Second, the UK has now ratified the Istanbul Convention, but with a reservation attached which means the government is failing to protect migrant women from abuse. Two core improvements were identified in relation to this. (1) UPR recommendations must be fluid and adapt as the human rights situation develops. In this instance, the recommendations started by asking the UK to sign the Istanbul Convention. When the UK government had achieved that, they then developed to asking the UK to ratify it, and now they must progress to considering removing the reservations. To some extent, this has happened in the UK’s Fourth Cycle UPR which took place on 10th November 2022, as Spain asked the UK to lift its reservation regarding migrant women.¹¹¹ (2) Member States should utilise CSO recommendations. As CSOs are clearly seeing the difficulties and issues facing domestic abuse victims first-hand, the UK Government should work with them, both within the UPR process and more generally. As section B identified, issues related to domestic abuse were discussed elsewhere in the UPR, predominantly by CSOs in their individual stakeholder reports. This means that the information is available to Member States to help formulate meaningful recommendations and they now need to use it.

Third, whilst it is commendable that Member States have started to refer to domestic abuse specifically in their recommendations, focusing on particular marginalised groups of women that face domestic abuse could lead to more targeted action by the UK government. This section introduced the theory of intersectionality, through the examples of how intersectional recommendations would support GRT and trans women, also reinforcing the argument that Member States should use information provided by CSOs when formulating recommendations. More work on this in relation to the UPR is required to understand what effect an intersectional approach would have on the mechanism more widely. In sum, because the UK Government must at least consider implementing all UPR recommendations, this approach would

¹¹⁰ UPR Info (2015) n 99 above.

¹¹¹ UK UPR Fourth Cycle – [link to UPR Project at BCU's record to be added](#). Full report of the working group is not yet available at the time of writing.

encourage the government to find ways to address specific instances of intersectional abuse, highlighting that the same approach for all women will not work in practice.

This article contends that the core findings of this research can be applied across the entirety of the UPR recommendations, especially when related to women's rights: (1) use consistent terminology, (2) be specific when discussing aspects of VAWG, (3) UPR recommendations should be fluid and adapt to the changing human rights landscape, (4) utilise recommendations provided by CSOs in their stakeholder submissions, and (5) consider applying an intersectional approach when making recommendations.

Further research is required regarding the UPR as a whole, but particularly how the UPR recommendations can be improved to ensure they are implemented on the ground. The author's next research project will consider in more detail the utility of Member States using CSO recommendations and information, through the case study of female genital mutilation in Somalia.