

A Practical Guide to the UPR

How NGOs can influence the Universal
Periodic Review process



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International
Rehabilitation
Council for
Torture Victims



**HUMAN RIGHTS HOUSE
FOUNDATION**

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The International Rehabilitation Council for Torture Victims is an independent non-profit global organisation with a membership of more than 140 rehabilitation centres in 74 countries and with over 25 years experience. The work of the IRCT is threefold: Rehabilitation of torture victims and their families; Ensuring victims' access to justice; Eradication of torture.

The Human Rights House Network (HRHN) unites established and emerging Human Rights Houses (HRH). 70 NGOs in 15 countries in Western Balkans, Eastern Europe and South Caucasus, East and Horn of Africa, and Western Europe are currently part of the Network. HRHN's aim is to protect, strengthen and support human rights defenders and their organisations.

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May 2012

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Introduction

In 2006, the UN General Assembly decided to replace the Commission on Human Rights, its main political human rights body, with the new Human Rights Council. One of the key innovations of the Human Rights Council was that the Council should systematically review the human rights of all UN member states on a regular basis

in what was named the Universal Periodic Review (UPR). This was to ensure that the human rights record of all states is reviewed on an equal basis without regard to the gravity of the human rights situation and ratification and reporting under specific human rights treaties.

What is the UPR

With the UPR, all states will have their human rights record reviewed by the Human Rights Council every four and a half years. As a Human Rights Council mechanism, the review is conducted in Geneva through a three and a half hour session during which any state can ask questions and make comments and recommendations to the state under review. The state under review is also given the opportunity to provide responses during the session.

UPR provides a venue in which states can hold an interactive discussion about the human rights record of a specific country without discrimination since all states are reviewed at a regular interval. The review is conducted on the basis of information from three main sources: i) the state under review, ii) UN mechanisms and agencies,

iii) and other stakeholders including non-governmental organisations (NGOs). NGOs thus play an important role in ensuring that all relevant information is brought forward for the UPR.

The outcome of a UPR is a document listing all recommendations made to the state under review and its position on each recommendation. This can be accepted, rejected or kept under consideration by the state. Torture, justice and independence of the judiciary, ratification of international instruments, and the overall respect for human rights are among the issues addressed in the UPR. It is thus a relevant venue for torture rehabilitation centres, Human Rights Houses and NGOs to consider when engaging with international mechanisms to promote domestic change.

List of the top five issues addressed by the 14,435 recommendations made from the 1st to the 9th session are:

- International Instruments (2709)
- Women's Rights (2494)
- Rights of the Child (2222)
- Torture and CIDT (1140)
- Justice (1089)

On an average, states accepted 71% of recommendations.

Statistics from UPR info: <http://www.upr-info.org/>

Positive elements of UPR

The fact that states **are required to express their position on each recommendation** may help hold states accountable to implementation of accepted recommendations and lead to continued national and international monitoring on all recommendations.

The **continuous four and a half year reporting cycle** is another positive element of the UPR. So far almost all states have reported and been reviewed as scheduled, including states that have not ratified certain treaties or are not complying with their reporting obligations to the treaty bodies, will be subjected to a review of their human rights record where they can also be given procedural recommendations such as treaty ratification, submission of delayed treaty body reports and implementation of specific treaty body recommendations.

In many countries, the UPR process has resulted in a **more vibrant national debate**

about the situation of human rights in the country, and the process of submitting information to the review has often led to stronger cooperation within the NGO community - especially where NGOs create coalitions to submit joint reports to the UPR. All this has, in certain instances, created what can be described as a human right momentum, resulting in less controversial recommendations being effectively addressed in the aftermath of the review.

When the Human Rights Council has officially adopted the recommendations, it is up to all stakeholders including government agencies, diplomatic community, UN agencies, national human rights mechanisms, and NGOs to work towards their implementation. Here, the **four and a half year reporting cycle sets a natural deadline for an evaluation** of the degree of implementation of the previous recommendations and the overall human rights situation in the country.

The UPR process provides inter alia the following opportunities for promoting domestic change:

- Ratification of international and regional human rights standards and timely reporting to international and regional mechanisms
- Adoption of domestic anti torture laws and establishment of National Preventive Mechanisms on the Optional Protocol to the Convention against Torture (OPCAT)
- Promotion of the right to rehabilitation for torture victims and the importance of ensuring that rehabilitation services are available
- Reform of NGO laws and regulations on the right to freedom of assembly
- Sensitisation over the situation of human rights defenders, political prisoners, and independent journalists, and their organisations
- Reform of criminal procedures code and other relevant legislation
- Reform of detention system addressing inadequacies such as overcrowding

A review of all human rights

- The reporting cycle

The basis of the examination in the UPR is the UN Charter, the Universal Declaration of Human Rights (UDHR), human rights instruments ratified by the state under review, and any voluntary pledges and commitment made by the state. Thus, regional mechanisms to which a state is party can also be relevant. **The UPR is a review of all human rights.**

Furthermore, states can also be examined on the basis of rights enshrined in the Universal Declaration of Human Rights (UDHR) whether they have ratified the relevant treaties or not. Such rights include freedom from torture and ill-treatment (article 5 of UDHR); freedom of association and of assembly (article 20 of UDHR); and freedom of expression (article 19 of UDHR). States can also be held accountable on the situation of human rights defenders, under the General Assembly resolution on human rights defenders.

The UPR reporting cycle consists of a number of steps, which can be broadly grouped in four clusters: i) Preparation of the review; ii) Review; iii) Outcome; and, iv) Follow-up on UPR recommendations.

Preparation of the review

The UPR is based on three types of information:

- The state under review is de facto obliged to submit a report of a maximum of 20 pages on its domestic human rights situation;
- The Office of the UN High Commissioner for Human Rights (OHCHR) will provide a ten-page summary of information contained in relevant documentation;
- Lastly, all other relevant stakeholders, including NGOs and national human rights institutions (NHRIs), may submit information in the form of a 2815 word report from individual organisations or 5630 words if the report is submitted by a coalition. The information in these reports will be compiled by the OHCHR into a ten-page report that will be used by the Council for the UPR.

With the three official documents as the basis, the states wishing to participate in the review will prepare comments, questions and recommendations for the state under review. These will usually be prepared in collaboration between the ministries of foreign affairs, the missions to the UN at Geneva, and the embassies covering the state under review. If they wish, states can submit their questions in writing in advance of the review. They can deliver

their comments and questions, and most importantly their recommendations, orally during the review.

Review in Geneva

The first part of the review in Geneva (Switzerland) consists of a three and a half hour session in the Human Rights Council's UPR Working Group. The UPR Working Group consists of all the 47 members of the Council and is formally responsible for conducting the review. In practice all states are allowed to participate in the dialogue.

It is during this session that states will present their comments, questions and recommendations. The state under review presents its report and engages in dialogue with the other states.

The Working Group adopts a report a few days after the session, containing all recommendations. It can also contain a preliminary decision by the state under review about whether it accepts each individual recommendation.

Outcome

The last step is the adoption of the outcome report by the Human Rights Council, which takes place during a following Council session. The state under review has to indicate at this stage whether it accepts each of the recommendations.

During the one-hour slot allocated for adoption of each Outcome Report, the state under review is awarded 20 minutes to provide further comments on the review,

followed by 20 minutes for the states and ending with 20 minutes for other stakeholders, including NGOs and NHRIs.

The adoption of the report concludes the official review.

Follow-up on UPR recommendations

Formally, it is the responsibility of the state to implement the recommendations in the outcome report. However, NGOs, NHRIs and other stakeholders have to play a significant role in monitoring, promoting and assisting the implementation of specific recommendations.

Whilst there is no formal follow-up mechanism associated with the UPR, states are encouraged to submit information on an ongoing basis on initiatives taken to implement concrete recommendations. As of March 2011, ten states have provided written follow-up information. In addition, the fixed four and a half year review cycle provides another venue for follow-up. The degree of implementation of past UPR recommendations is to be addressed during subsequent reviews.

At the 16th session of the Human Rights Council, the Republic of Poland submitted information on the implementation of all 29 recommendations it had received at its review, although it did not give a clear answer if it accepted or not the recommendations.

Influencing the review

General approach to UPR advocacy

UPR was created as a review of states by states - a peer based review. There are, however, several ways whereby NGOs can seek to influence the review process to ensure that it has maximum impact on the ground. Since it is a state-driven process, NGOs will need to influence state actors either from the state under review or from other states participating in the review.

How to engage a state under review varies greatly from state to state and from issue to issue - in some instances collaboration is the best approach and in others there is a need for denunciation. Over time, local dynamics may change, and it is therefore up to the individual advocate to determine how to engage most effectively.

From a general perspective it is important to make three key observations:

- The overarching objective of the UPR is to ensure that recommendations made to your Government adequately

The Kingdom of the Netherlands made recommendations on NGO regulations (to Armenia and to Ethiopia), human rights defenders and NGO legislation (to Azerbaijan and to Qatar), NGO registration (to Belarus), alongside other recommendations on the right of freedom of association, which shows an interest of this specific country on this particular issue.

cover your priority issues and that they are clear, focused, specific and implementable.

One example of a clear, focused, specific and implementable recommendation was provide by Denmark to the Philippines in May 2012:

“...effectively implements the 2009 Anti-Torture Act, with a particular focus on ensuring that all investigations and prosecutions of allegations of torture and ill-treatment fully cover the possibility of command responsibility as stipulated in section 13 of the Act; and that all alleged victims of torture and ill-treatment have effective access to a medical evaluation of their injuries by institutionalising the use of the Istanbul Protocol, including by providing guidelines to judges, prosecutors, forensic doctors and medical personnel dealing with detained persons, to detect and document physical and psychological trauma of torture.”

- Not all human rights issues are equally controversial and not all government agencies are equally sensitive to criticism. Therefore, it is important to analyse which government agencies are most likely to be forthcoming to which issues. This analysis will help the advocate decide how to prioritise efforts and resources.
- If the government is not open to be influenced on substance it might still be possible to influence how it

approaches the UPR process in terms of the composition of the delegation going to Geneva and the approach to follow-up on the UPR recommendations. This in itself can have a significant impact on the effectiveness of the UPR process.

When seeking to influence states to take up your priority issues during the UPR review, the key is to identify the states that are most likely to address your priority issue during the review and to ensure that you get the most you can get from every state you engage with.

The first step is to analyse the foreign policy priority issues to **map out which countries are likely to have a focus on the review of your country and which are interested in your specific thematic priority issues**. These priorities can be found in policy documents from the respective ministries of foreign affairs and through analysis of a state's comments and recommendations in previous UPR sessions.

Once you have identified which states are likely to promote your priority issues, you need to establish contact to the relevant state representatives who will be involved in the review of your state. When selecting which states to contact it is important to think about what their relationship is with your government and how likely your government is to respond positively to a recommendation from that state. For example, **recommendations from donor countries, political allies and states from the same UN regional group are more likely to be diligently implemented**. Furthermore, it is good to seek support for your priority issue from various countries from different regions, in order for your government

not to have the feeling that it is a “western agenda” of a “non-aligned movement agenda” - your government needs to feel that it is an issue of global concern.

After you have made the initial contact with the states you want to lobby, it is important to arrange meetings. This can be done both at your local embassy and with the missions in Geneva. If resources permit, it is important to meet both the local embassies and the Geneva representatives to ensure that your priority issues are not lost in the process. This is because the initial stages of the process are often carried out in the local embassies while the final implementation and submission of recommendations are made by the Geneva missions.

Finally, remember to follow-up with the state representatives. This is important because it is the only way you can express

The UPR of Norway was a process in which NGOs were consulted and critical input was welcomed by government. Therefore a fruitful dialogue is possible nationally, even if government does not include fully all recommendations made by NGOs in its UPR report.

your appreciation for their support but also because it is a way of keeping continuously engaged with the UPR of your country and the implementation of the recommendations. This means that after the review, you may solicit the support of the same states for implementation of some of the UPR recommendations either through funding, technical assistance or political pressure.

Preparation of the review

In the preparatory phase, which is primarily focused on information collection, there are three main entry points for NGOs to influence the review:

The state under review is encouraged to prepare its national reports in broad consultation with all stakeholders. In the best practice examples, states hold several hearings with NGOs and other interested groups and individuals to seek their input on the contents of the state report. This does not imply that the views are subsequently included in the report but it facilitates a dialogue between the government and NGOs, which may be valuable later in the process. Most states will have a person or unit acting as focal point for the UPR process with the primary responsibility of collecting input from all relevant ministries and government agencies. Depending

For the UPR of Bosnia-Herzegovina, a large NGO coalition was established and coordinated by the Human Rights House Sarajevo on all rights and from the various regions of the country. This gave momentum to NGOs to engage together in international advocacy.

on the national context, it might be relevant to identify where this responsibility lies and contact the focal point with the objective of ensuring that NGOs are heard in the process.

NGOs can submit their own information directly to the OHCHR either as an individual or a coalition submission. In the UPR system NGO coalitions are often more visible

and have more impact than single NGO submissions, given the fact that NGO reports are summarised into one document and that coalition reports can have 5630 words instead of only 2815 words.

The UPR is an opportunity to build stronger cooperation between NGOs in the international advocacy and it is a good tool for coalition building and strengthening links between NGOs nationally.

When participating in a coalition, NGOs working on very specific issues should consider if their own analysis and recommendations are likely to receive sufficient visibility to be addressed in the UPR. In such case the NGO may wish to supplement its participation in the coalition with the submission of a 2815 word individual report, which elaborates on issues, which are addressed more superficially in the coalition report.

The UN member states conducting the review may be interested in receiving additional, updated and more detailed information about specific issues or specific countries to enable them to make more specific and focused recommendations. Many states prepare their comments and recommendations through a process involving the Ministry of Foreign Affairs, their permanent mission to the UN at Geneva and their embassy in the state under review. Often, the substantive information comes from the local embassy. During the information collection phase, the easiest way to ensure that the states take account of your priority issues is through direct engagement with the relevant embassies in your own country. This can either be done through bilateral talks with each of the embassies you deem relevant or by hosting a presentation/Q&A session for a group

Whilst preparing the UPR, have in mind that your objective is to have States give your recommendation to the Government and that this should be as concrete as possible. An example of a concrete recommendation is the one on torture from Denmark to the Philippines: “effectively implement the anti torture act with a special focus on responsibility of superior officers, access to a medical examination and the establishment of a sufficiently resourced rehabilitation programme for torture victims”

of local embassies where you can inform them about your concerns and they can ask supplementary questions. In this engagement, it might also be possible to propose concrete recommendations that the states can make during the review. This engagement with the local embassies can also be a first step in obtaining funding for going to Geneva to attend the review.

Lobbying delegates in Geneva

Since it is the respective permanent missions to the UN in Geneva who will be responsible for delivering the comments and recommendations, meetings with the relevant missions in Geneva is likely to be the most effective entry point for influencing each state.

If you plan an advocacy trip to Geneva, and have funding to do so, plan it at least six weeks ahead of the Working Group session. Statements and recommendations of the various states are selected weeks before the session. Once the intervention is written, it is very difficult to change it. Being in Geneva ahead of the session is also a way of meeting delegates when they have time and can focus on your issue.

In order to successfully influence this step of the process, it is a good idea to prepare

additional and more targeted information materials to supplement the official NGO submission. One way of doing this is by preparing one-page fact sheets pertaining to each of the recommendations you would like to see come out of the review. Here you provide background information and additional readings on the issue; a justification for why it is important to address in the UPR, including reference to the issue by any other UN bodies; and suggested text

Delegates in Geneva work on many countries and issues, and are therefore overworked. You need to provide them with direct, brief and clear information. Do not bring them documentation that is not in their own language or in English.

for recommendations to the state under review. In this way you can offer the state a menu of different issues to choose from based on their interests. Please note that fact sheets should never be longer than one page each if you want them to be read by diplomats. Finally, for the Geneva-based delegates, it is very useful to prepare them a fact sheet comparing the main recommendations you are advocating in favour, and the recommendations the state you

are meeting with made at previous UPRs on similar issues.

If this is not possible due to financial or other constraints, this can also be done remotely through email and phone and through the local embassy in your country.

After the review of Eritrea, the NGO coalition wrote to the government to say which recommendations it should accept. It copied in all delegations, which made the accepted recommendations. This was a way of keeping delegations informed and following-up with them.

During the review

NGOs can also host parallel events about the situation in their country during the session of the UPR Working Group. This is a good opportunity to reach a broad audience and possibly also some media outlets.

The UPR Working Group session is also an important tool to promote human rights nationally, and gather attention to issues you raised in your own country. You can organise a webcasting session, live, of the whole UPR in your country. It can even be a broad public event, to which you invite the diplomatic community and other NGOs, students and youth activists, etc.

Between the review session and the adoption of the outcome at the Human Rights Council, NGOs have the opportunity to advocate authorities of the state under review to accept certain recommendations because most of the states under review only respond to the recommendations at the Human Rights Council session and not at the review itself.

NGOs are only allowed to give direct input into the UPR at the very end of the process. Therefore, the intervention should focus on follow-up and implementation of recommendations.

At the Human Rights Council session

The outcome of the UPR is to be adopted at the Human Rights Council session - normally the Council session that follows the UPR Working Group session.

At the Council session in Geneva, a side-event can have more visibility than at the UPR session. It is also at the Council session that an NGO can take the floor.

You should look into the possibility of holding an event at the Council session, and, depending on the national situation, with the participation of the Ambassador to the United Nations at Geneva or other representatives of the state under review. This side-event could typically focus on the “national UPR implementation plan.” In addition, preparing a short statement to be made at the Council (two minutes) can be efficient and you can thereby bring your points to the table of the Council.

Implementation and follow-up to UPR recommendations

In the follow-up phase where the state is practically obliged to implement the recommendations in the UPR Outcome Document, there are several venues for NGOs to get engaged. First step of the

follow-up is to translate the recommendations into the national language and to disseminate them broadly nationally. NGOs can of course lobby national authorities to translate the recommendations but it might often be more efficient and faster to do so without waiting for national authorities to act.

The key is to ensure that the international political process during the review in Geneva and its outcome is picked up by the relevant domestic authorities responsible for their implementation. For this reason the follow-up work already starts before the review. It is important for NGOs to promote that the state sends a diverse delegation to Geneva, which comprises representatives from all relevant ministries and other government agencies. This is the first step to bringing the recommendations home.

It is important to note that Geneva is not the most important place for follow up. The recommendations need to be put to life at the national level. Here you can try to solicit the support of the same governments that made the recommendations in Geneva. Furthermore, you can seek to put additional pressure on the government by getting other UN or regional mechanisms to address the same recommendations.

Nationally, NGOs should always lobby authorities to adopt a national plan to implement UPR recommendations. This plan should at least comprise an inclusive consultation process with civil society and a programme of work for the implementation of the various recommendations. NGOs can

One recommendation that is made to many states under review (typically by Norway) is that they should have an effective and inclusive process for following-up on the recommendations resulting from the UPR.

also prepare, two years after the adoption of the UPR outcome, a mid-term report indicating in which areas progress has been made, where authorities are taking measures to implement recommendations, and where accepted recommendations are not implemented. This is also the opportunity NGOs have to highlight why some recommendations that were not accepted, should have been accepted and implemented. This report can be published nationally and also sent to the embassies of the states that have made recommendations. It can also be distributed at the Human Rights Council.

Timing of interventions

In the UPR process, appropriate timing of each intervention is crucial for the success of your advocacy plan. Each UPR session sees 14 states being reviewed, which implies a significant workload for many permanent missions in Geneva if they are to participate on all 14 reviews. It is therefore important to time the different interventions in a way so the diplomatic staff actually has time to look at your information.



The specific deadlines for submission of reports can be found here:
<http://www.ohchr.org/EN/HRBodies/UPR/Pages/NewDeadlines.aspx>

On coalition building

In the UPR system NGO coalition are often more visible and have more impact than single NGO submissions, given the fact that NGO reports are summarised into one document and that coalition reports can have 5630 words instead of only 2815 words.

The UPR can be an opportunity to build stronger cooperation between NGOs in the international advocacy. The UPR can be a tool for coalition building and strengthening links between NGOs nationally.

What has to be considered for NGOs working on very specific issues is the visibility of their own analysis and recommendations. The coalition can therefore decide to publish a joint 5630 word report, and refer for some issues to the 2815 word submissions of NGOs members of the coalition. This is a way of maximising the visibility of a national NGO coalition and of keeping some issues visible with reports only on those issues.

Link to other human rights protection mechanisms

The UPR is not based on international or regional human rights treaties and does not review the implementation of those treaties. UN treaty bodies, such as the Committee against Torture or the Human Rights Committee, are committees that monitor the implementation of a specific treaty by states having ratified the concerned treaty.

Whilst preparing the UPR, NGOs should read concluding observations made by UN treaty bodies, and regional bodies, such as the Council of Europe's Commission

for Prevention of Torture (CPT) and refer to them when relevant in their report. When reporting to treaty bodies, references to UPR recommendations and the State's position on these can also be useful. When submitting information to regional bodies, such as the Parliamentary Assembly of the Council of Europe, referring to UPR recommendations is also useful.

UN treaty body reviews can be appropriate preparation and follow-up mechanisms to the UPR.

Finally, it is important to link UPR recommendations in work done in other international organisations, and back at home, because this is the easiest way to

make those recommendations more visible and thereby make implementation of the recommendations by the state more likely.

IRCT and HRHF's work with the UPR

It is our hope that this guide will help empower human rights advocates around the world to effectively use the UPR process to promote domestic change. In recognition that the process is complicated and that many organisations have difficulties accessing decision makers in Geneva, the Human Rights House Foundation (HRHF) and the International Rehabilitation Council

for Torture Victims (IRCT) are implementing programmes to support our partners with this part of the process. Within our limited resources, we will try to support partners with the preparation of the UPR, lobbying Geneva-based decision makers, and advocating nationally for the implementation of UPR recommendations.



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