
Outcome Report

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I. Introduction

The Universal Periodic Review (UPR) was created by the United Nations (UN) General Assembly in March 2006 by Resolution 60/251 of 3 April 2006, which also established the mandate of the Human Rights Council (HRC). The resolution provides that the Council shall “undertake a universal periodic review based on objective and reliable information of the fulfilment by each State of its human rights obligations and commitments in a manner which ensures universal coverage and equal treatment with respect of all States; the review shall be cooperative mechanism, based on an interactive dialogue with the full involvement of the country and with concern and with consideration given to its capacity building needs; such a mechanism shall complement and not duplicate the work of treaty bodies.”¹

The UPR is a state-led peer review. The objectives of the UPR are to improve the human rights situation on the ground and to fulfill states’ obligations and commitments; to enhance state capacity and technical assistance; to promote the sharing of best practices among states; to support cooperation in the promotion and protection of human rights and to encourage full cooperation and engagement with the HRC and other human rights bodies including the Office of the High Commissioner for Human Rights (OHCHR).² The criteria of review includes the UN Charter, the Universal Declaration of Human Rights, the UN treaties on Human Rights including conclusions and recommendations insofar as the concerned country is party to the treaty, voluntary pledges and commitments including those undertaken when presenting candidature for election to the HRC, and in international humanitarian law as far as it is reasonable applicable (e.g in war situations of armed conflicts).³

The UPR is carried out through the HRC Working Group on the UPR (UPR Working Group), consisting of 47 HRC Member States and chaired by the HRC President. There are two stages to each review. The first stage is a 3.5-hour UPR Working Group session, held tri-annually where fourteen States come under review. Each review is based upon three sources of information: a National Report submitted by the state under review (20 pages); a summary of

¹ United Nations General Assembly Resolution 60/251, paragraph 5 (e)
² Human Rights Council Resolution 5/1, paragraph 4
³ Human Rights Council Resolution 5/1, paragraph 1
recommendations and observations made by the UN human rights mechanisms and other UN agencies (10 pages); and a summary of information provided by National Human Rights Institutions (NHRIs) and civil society (10 pages). The Working Group allocates 70 minutes to the State under review to present its national report, discuss its domestic human rights framework, measures taken to promote and protect human rights in the country, and steps taken to address and redress violations. An interactive dialogue of 140 minutes ensues, which facilitates comments, questions and recommendations by other States to which the state under review may respond.

The second stage of the review is a 1-hour plenary session dedicated to the adoption and examination of the outcome report, which takes place 3 months later. During the adoption of the report, the State under review has the opportunity to submit its position on the recommendations (i.e. whether it has accepted or rejected it). This is also an opportunity for the State under review to answer questions or issues that were not sufficiently addressed in the interactive dialogue of the Working Group. Members of the HRC as well as Observer states have a chance to express their views on the outcome of the review before the plenary takes action on it. Other stakeholders, including NHRIs and civil society actors also have the opportunity to make ‘general comments’ before the adoption of the review. Following the adoption of the outcome report, the State undertakes to implement the recommendations it has accepted and voluntary pledges it has made. The State then has 4.5 years between two reviews for implementation and follow-up of its UPR recommendations. As per the provisions of HRC Resolution 5/1 of 18 June 2007, the outcome of the UPR should be implemented primarily by the State concerned and as appropriate by other relevant actors.

Unlike the first cycle of the UPR, the second and subsequent cycles of the UPR are meant to focus, inter alia, on the implementation of recommendations emanating from previous

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4 Ibid., paragraph 15 - 17
5 Human Rights Council Decision A/HRC/17/L29, part II
6 It is important to note that the opportunity to speak is limited to ECOSOC accredited NGOs and NHRIs that are accredited by the International Coordinating Committee of the National Human Rights Institutions, unlike the submission of information to the UPR which is open to all relevant stakeholders.
7 Human Rights Council Resolution 5/1
reviews as explicitly stated in HRC Resolution 16/21. This ensures compliance, measurement and continuity of the process with hope of yielding concrete and sustainable results. Indeed, identifying and developing effective follow-up strategies is crucial as the UPR focuses on the improvement of the human rights situation on the ground. Although there have been varying degrees of success and commitment shown by States, a number of significant efforts have led to the understanding that certain practices are fundamental to the UPR follow-up process. These include: the establishment of mechanisms at the national level, ongoing national consultations, development of integrated implementation plans and the identification of areas for technical assistance.

II. Themes of the discussion

With our eyes now on the third cycle, the UPR mechanism is at a crucial stage where its efficiency, best practices and ability to yield concrete human right improvements must be assessed. On the occasion of the 27th Regular Session of HRC, a side-event was organised by the Permanent Mission of the Kingdom of Morocco and the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland (UK). The panel-event was designed as a stocktaking exercise that builds on the experience of a cross-regional group of States that have developed experience either in submitting interim reports or that have national mechanisms for the follow-up on UPR recommendations.

The present report recapitulates the key ideas that were raised during the side-event panel discussion. First, it introduces the two primary foci of the panel discussion, namely: National Mechanisms and Midterm reports. The report then provides a summary of the panel discussion. Finally, a brief analysis and review of key challenges is provided. By shedding light on best practices and key challenges that must be addressed in the future cycles, it is with hope that this report contributes to the strengthening of state coordination and engagement with the UPR process.

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8 Human Rights Council Resolution 16/21, paragraph 6
a. **National Mechanisms**

Many countries have established coordinating mechanisms at the national level to conduct follow-up activities and also to collectively draft UPR submissions. While the structure of these mechanisms differ from one country to the other, those which have an institutionalized link with the highest level in the executive tend to have the greatest political will to conduct their work. For example, Mauritius has set up two national mechanisms to conduct UPR follow-up, namely: a Human Rights Unit within the Prime Minister’s Office which is responsible for coordinating all human rights issues and a Human Rights Monitoring Committee which comprises of various government ministries and departments. Other examples include that of Mexico, where the Inter-Ministerial Commission on Government Policy on Human Rights is in charge of UPR follow-up, a body responsible for coordinating the human rights planning process at the various federal government offices and bodies. Some States, such as the United States of America adopt a more decentralized approach of a network of thematic working groups, with each working group led by a specialized State agency or department.

Although membership of National Mechanisms will vary from country to country, it is generally a more meaningful process when membership is as inclusive as possible, bringing together civil servants and representatives from executive bodies, the Parliament, the judiciary, the UN as well as (crucially) representatives from NHRIs and civil society organisations.

b. **Mid-term reports**

During the first meeting of the open-ended intergovernmental Working Group on the review of the work and functioning of the Human Rights Council in October 2010, many States (including Japan, Chile, Morocco, Norway, Uruguay and Brazil) proposed to establish or at least encourage mid-term reporting to the HRC no later than two years after the adoption of the review outcome. This proposal was then incorporated into HRC Resolution 16/21, which
encourages states to provide - on a voluntary basis - a mid-term update on the follow-up to accepted recommendations.⁹

Midterm reports are useful tools for tracking progress on implementation of recommendations but also identifying areas where work must still be done. Importantly, midterm reports ensure outreach, dissemination, and visibility throughout the process, in turn strengthening continuity and state accountability. The practice of mid-term reporting also allows for an increased role for NHRIs and civil society, as it provides an opportunity to engage in constructive dialogue with the respective government, raise awareness around the UPR and update recommending states on progress made. The number of midterm reports received in the 1st cycle was 47, and 5 have already been submitted in the 2nd cycle so far.¹⁰ This demonstrates substantial State interest in the process, but also exemplifies States’ strong commitment to furthering the goals of the UPR.

III. Summary of panel discussion

Mr. Bacre Ndiaye, Director of the Human Rights Council and Special Procedures Division of the Office of the High Commissioner for Human Rights (OHCHR), noted that UPR has proven to provide an important framework for institutional collaboration, with a transparent, holistic and collaborative approach that has been carried out as an opportunity for self-improvement in a constructive spirit. He highlighted that a standing national inter-institutional structure mandated to lead the follow-up combined with a national action plan with clear responsibilities and a time frame has been indispensable in the implementation of recommendations. Although the UPR process must be nationally owned, Mr. Ndiaye underlined the OHCHR’s role as a supporting partner where appropriate.

H.E. Baroness Anelay, Minister of State in charge of Human Rights and International Organisations for the Foreign and Commonwealth Office (UK), emphasised that UPR must be viewed as a constructive, on-going and essential mechanism for promoting continual improvement in the spirit of democratic debate. The Baroness stressed that the practice of states submitting midterm reports is a useful tool for tracking progress on the implementation

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⁹ Human Rights Council Resolution 16/21, paragraph 18
¹⁰ Data from UPR Info, http://www.upr-info.org/en
of UPR recommendations, and identifying areas where work must still be done. Furthermore, Baroness Anelay noted that much of the success of the United Kingdom’s UPR process was due to an open and consultative process with National Human Rights Institutions (NHRIs) and NGOs, which were able to feel involved and make their voices heard. The Baroness concluded that concrete and sustainable results for people on the ground would ultimately require real and sustained political will.

H.E. Ms. Päivi Kairamo, Ambassador and Permanent Representative of Finland, noted that the UPR provides an important channel to elaborate on national challenges. She described how UPR is also a positive peer-learning process, providing a variety of multilateral and bilateral avenues for cooperation. Ambassador Kairamo described the Finnish experience as extremely positive, allowing for significant changes in the national monitoring system to accelerate fulfilment of its obligations.

H.E. Mr. Krekpan Roekchamnong, Ambassador and Deputy Permanent Representative of Thailand, underscored that an inclusive UPR process, involving all relevant stakeholders, is no less important than the final outcome. Such a process must also be transparent to ensure public awareness and civil society participation. Furthermore, Ambassador Roekchamnong noted the utility of submitting a midterm report; an activity he hopes will become a permanent feature of the UPR process. Finally he echoed Baroness Anelay’s comment on the importance of political will, which must fuel the UPR process.
H.E. Mr. Mahjoub El Haiba, Inter-Ministerial Delegate for Human Rights for the Kingdom of Morocco, also highlighted the importance of midterm reviews and national action plans as an opportunity to create various pathways for all stakeholders. He then emphasized that inter-ministerial coordination allows the state to build bridges amongst various ministries in order to discuss topics and develop a common way forward, a practice that ought to be encouraged between countries as well. He also stressed the need for institutional memory, civil society inclusivity, and sharing experiences as being crucial. All stakeholders must be participate and feel ownership in the process including governments, civil society, academia and parliamentarians. Reports are published and distributed, but because the UPR follow-up is an on-going process, and not an objective in itself, it is crucial to permanently imprint the follow-up best practices into state behaviour.

H.E. Mr. Ricardo Sepulveda Iguiniz, Director General of Public Human Rights Policy in Mexico’s Ministry of Interior, emphasized the importance of integrating UPR recommendations at state level, specifically through National Action Plans, as one of the key strategies to enforce human rights obligations. He underlined that the crosscutting nature of human rights policies can prove to be challenging, and suggested that an inter-ministerial commission is the adequate space to conduct follow-up work on the UPR. Mr Iguiniz also noted that Mexico has now issued 4 national action plans since 1998, and that the process becomes easier over the years. An important challenge highlighted comes from the elaboration of precise and adequate indicators to help make such reports, especially when recommendations are often too broad to helpfully inform the formation of public policy.

H.E. Mr. Israhyananda Dhalladoo, Ambassador and Permanent Representative of Mauritius, suggested that the national consultative process should not be limited to preparing reports, but must also incorporate ensuring effective implementation by ensuring necessary actions, legal frameworks, monitoring mechanisms and regular consultations in order to
achieve sustained and concrete outcomes. In the case of Mauritius, he noted the utility of coordination with other actors, for example the development of human right indicators established with the help of UNDP and the University of Mauritius, but also technical assistance from OHCHR in training and sensitizing citizens. In terms of the review process, Ambassador Dhalladoo noted the importance of making recommendations that are clear and concise, that respect national peculiarities, and that are not simply repetitions of Treaty Body recommendations that have been made in other fora.

Mr. Roland Chauville, the Executive Director of UPR Info, highlighted three significant challenges that countries often face in implementing UPR recommendations. First, there is an acknowledged difficulty in reporting on the increasingly high number of recommendations, especially for states with fewer resources. Second, it is difficult to assess and implement vague recommendations, which UPR Info research has shown represent as many as 70% of all UPR recommendations. Thirdly, a lack of resources and difficulties in working and coordinating with governments has meant that the constructive potential of civil society has not been fully exploited, notably in raising awareness of the UPR process and publishing midterm reports. Turning to the impact of the follow-up on the ground, Mr. Roland Chauville announced the findings of a study conducted by UPR Info indicated that 48% of recommendations have triggered actions by Government three years after the review.
IV. Analysis

There are several very significant issues that were highlighted in the above panel discussion that are worthy of reiteration.

a. Quality of recommendations / Elaboration of indicators

First of all, as highlighted by several of the panelists, there is the reoccurring problem of the quality of recommendations given during the interactive dialogue. The quality of recommendations is essential to ensure that States under review are given objective measures that properly apply to its conditions and capacity of implementation. For example, recommendations such as “combat impunity”\textsuperscript{11} or “to continue its efforts in the promotion and enhancement of human rights by taking into necessary measures to achieve this goal”\textsuperscript{12} are detrimentally vague and weaken the process as a whole. This ambiguity also permits States under review to evade their responsibilities and implement minimal changes to avoid criticism in future reviews. Rather than formulating generic prescriptions that don’t take into account national contexts, States submitting recommendations must make an effort in identifying the root of specific issues and providing recommendations that are both relevant and achievable to address them. Drawing from research done by to UPR Info, recommendations should be S.M.A.R.T (specific, measurable, achievable, relevant, and time-bound). By example, recommendations given to Zambia during its second review showed awareness of the present situation and reforms occurring during the country, such as the drafting of a new constitutions. Moreover, recommending states should carefully follow-up on their recommendations in subsequent cycles. If not, states will feel less accountable to the recommendations made during the Working Group, and the UPR will become a ‘report card’ where concerns are raised, rather than a mechanism to yield concrete human rights improvements.

\textsuperscript{11} Portugal Recommendation to Sri Lanka in its first cycle, A/HRC/8/46

\textsuperscript{12} Oman’s recommendation to Pakistan in its first cycle, A/HRC/22/12
The problem of ambiguous and imprecise recommendations is compounded by the difficulty in elaborating adequate and precise indicators to make UPR reports. The formulation of concise and universal indicators ensures continuity in the process because countries are able to set targets, measure progress and better incorporate the UPR into ministerial budgeting. Given that the UPR is a continuous, long-term national process, the establishment of relevant various human rights indicators ensures that the process outlives changes in governmental structure, personnel and regime type. Furthermore, such indicators also allow for cross-country comparisons, in turn allowing the identification of best practices and areas for improvement. Although states often lack technical capacity and expertise in this domain, the experience of Mauritius shows that academia and UN organisations such as UNDP or the OHCHR can play a significant role in helping to elaborate and measure national indicators.

b. Technical Assistance

Although the UPR process must be nationally owned, technical assistance is essential in helping states, especially smaller states or Least Developed Countries (LDCs), to successfully implement recommendations emanating from their review. In this respect, the Voluntary Fund for Financial and Technical Assistance established by HRC resolution 6/17 provides, in conjunction with multilateral funding mechanisms, a valuable source of financial and technical assistance. Furthermore, The important role played by intergovernmental organisations such as the Organisation Internationale de la Francophonie or Foreign and Commonwealth Office, notably in strengthening state capacity building and providing methodological tools and guidelines on the UPR process was also noted. Regional coordination, particularly North – South initiatives such as the Cotonou Agreement (between the African, Caribbean and Pacific States and the European Union), must also continue to initiate dialogue and see how assistance can best be provided.

c. Political will

Another significant challenge discussed was the generation of sufficient political will. Although the first cycle of the UPR experienced a 100% participation rate (which is especially encouraging as compared to the reviews under the Treaty Bodies system), political

13 Human Rights Council Resolution 6/17
resolve amongst States under review remains mixed. One way of addressing this challenge is increasing the transparency of the national processes, making them more inclusive and incorporating a broader range of actors. Indeed, the cross section of states in the panel found the UPR, and mid-term reports in particular, an important opportunity for fostering dialogue and cooperation with civil society and NHRIs. Moreover, states are explicitly encouraged to “conduct broad consultations with all relevant stakeholders”14 and involve other stakeholders in the implementation of UPR recommendations “when appropriate”15. Though one of the documents used as the basis of review is the stakeholders submission, for the review of a State under the UPR mechanism to be meaningful and respect the letter and spirit of HRC resolution 5/1, there is no doubt that continued emphasis must be placed on ensuring that non-state actors can provide their input at various stages of the UPR process. As noted by Roland Chauville of UPR Info, a major problem in this respect remains that NHRIs and civil society lack resources and pathways for coordination with their respective governments.

In this respect, Baroness Anelay pointed to the growing importance of the media - specifically social media - as an increasingly powerful tool for dissemination, inclusiveness and national ownership in the process. Indeed, social media and the internet remain an untapped resource to broaden the inclusivity and generate national awareness of the UPR process.

d. Ensuring continuity

Another issue brought up was continuity of the process. The experience of the cross section of states shows that the practice of implementing National Mechanisms and National Plans facilitates the continuity and sustainability of the UPR process. Although there has been a marked increase in the number of recommendations submitted by states during the second period of review, the experience of Mexico – now on its 5th national plan - points to a strong learning curve and institutional memory of the UPR. Indeed, as emphasized by the H.E Mr. Mahjoub El Haiba of the Kingdom of Morocco, it is crucial to permanently imprint the follow-up best practices into state behaviour in order to maximise the utility of UPR in influencing state behaviour and reinforce political will.

14 Human Rights Council Resolution 16/21, paragraph 17
15 Human Rights Council Resolution 5/1, Paragraph 31
V. Lessons Learnt

• The UPR mechanism is a continuous process. It is a matter of learning and taking ownership, but there remains a long path ahead.

• The mechanisms of the UPR, particularly midterm reviews, enables countries to set up national databases that summarize situations both at national and regional levels. These databases require the establishment of indicators, an area in which the OHCHR can assist.

• Inter-institutional cooperation, civil society inclusivity and sharing experiences are crucial. The UPR is an ideal instrument for facilitating such partnerships, be it through ministries, national coordinating committees or other independent mechanisms.

• Stakeholders must all be included, including governments, civil society, NHRIIs, academia and parliamentarians.

• National Action Plans and strategic planning have also proved extremely useful in achieving desired results.

• Political will, transparency and precision of recommendations are significant challenges, but the UPR follow-up process helps in highlighting certain areas of responsibility and areas for improvement.

• The UPR is now at a very important stage. There is a need to assess this stage, establish best practices, face the challenges and provide technical assistance to countries that need it.

• States need to implement a collaborative approach, establishing partners nationally and internationally across a range of partners and coalitions.

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