

# **AMNESTY INTERNATIONAL**

## **Questions & Answers on the Universal Periodic Review of the Human Rights Council**

**October 2007**

### **What is the Universal Periodic Review?**

The Universal Periodic Review (UPR) is a new mechanism of the Human Rights Council under which it will review, on a regular basis, the fulfilment by all 192 UN Member States of their human rights obligations and commitments. It is to be a cooperative mechanism, based on objective and reliable information, and equal treatment of all States. The review process is to fully involve the State under review, while at the same time not be overly burdensome for States. It should not duplicate the work of the treaty bodies.

The UPR process comprises:

- Preparation of the documentary bases by the State and other stakeholders, including consultation at the national level to prepare State input to the review, and submission of information by civil society organizations;
- A three-hour interactive dialogue in the UPR Working Group with the State concerned;
- Adoption by the UPR Working Group of the report of the country review;
- Adoption by the Council (in a regular session) of the outcome of the review; and
- Follow-up and implementation by the State concerned and other stakeholders as relevant.

As it is new, there is considerable uncertainty about how the UPR will work in practice and about whether it will be effective in the promotion and protection of human rights. Looked at positively, the novelty of the mechanism offers NGOs and governments an opportunity to shape it, including through the establishment of good precedents.

### **Why does the Council have the UPR mechanism?**

By being applicable, on an equal basis, to all UN Member States, the UPR is intended to address one of the main criticisms levelled at the Council's predecessor, the Commission on Human Rights, namely that its focus on individual country situations was selective and based on double standards (the Commission considered only a small number of countries at its annual sessions and shied away from addressing some of the most pressing situations, often for political reasons).

The UPR offers an opportunity to address in the UN's principal interstate human rights body country situations that were never the subject of action by the Commission on Human Rights.

### **Is the UPR the Council's only mechanism for addressing country situations?**

The Council has available to it the possibility of country resolutions and other procedures that were available in the Commission on Human Rights, including the new Complaints Procedures (which replaced the 1503 Procedure). We will not know for a while how the

Council will strike the balance between the UPR and other procedures for addressing country situations, but it is clear from UNGA resolution 60/251<sup>1</sup> that the UPR is one among several procedures available to address country situations.

### **What are the objectives of the UPR?**

- Improvement of the human rights situation on the ground;
- Fulfilment of the State's human rights obligations and commitments and assessment of developments and challenges;
- Enhancement of the capacity of the State to protect human rights;
- Sharing of best practice among States;
- Cooperation in the promotion and protection of human rights;
- Encouragement of full cooperation with the Council, its mechanisms (e.g., the Special Procedures and the Complaints Procedure) and other UN human rights bodies (e.g. the OHCHR, the treaty bodies, etc.).

### **What is the normative basis for the UPR?**

- The UN Charter;
- The Universal Declaration of Human Rights;
- Human rights instruments to which the State is a party;
- Voluntary pledges and commitments by the State, e.g. pledges made in the context of elections to the Council and in statements to the Council's high-level segment; and
- Applicable international humanitarian law.

### **On what information will the review be based?**

The review will be based on three key documents:

1. Information prepared by the State concerned. For most countries this information will probably take the form of a national report (maximum 20 pages). However, it is important to note that the modalities of the UPR stipulate that the State under review may choose to present this information only orally.<sup>2</sup> The Council has encouraged States to prepare their information through a broad consultation process at the national level with all relevant stakeholders.
2. A compilation, prepared by the OHCHR, of information contained in reports of the treaty bodies, Special Procedures and other relevant UN bodies (maximum 10 pages).<sup>3</sup> For many countries fitting this information into a 10 page compilation is going to be a challenge for the OHCHR.
3. A summary, also prepared by the OHCHR, of additional "credible and reliable information" by other stakeholders, e.g. NGOs, national human rights institutions, labour unions, church groups (maximum 10 pages).

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<sup>1</sup> UN General Assembly Resolution 60/251, adopted 24 February 2006, establishing the Human Rights Council is available at: [http://www.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251\\_En.pdf](http://www.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf)

<sup>2</sup> The European Union has suggested that its members will not prepare national reports.

<sup>3</sup> Extensive information about UN information available for individual countries can be found in the country profiles available on the website of the Office of the High Commissioner for Human Rights at <http://www.ohchr.org/english/countries>.

## What is the national report likely to contain?

The Council has adopted guidelines for the preparation and content of the national information (report).<sup>4</sup> It should include:

- Description of the methodology and broad consultation process followed in preparing the national report;
- Information on the normative and institutional human rights framework, including constitution, legislation, policies, and institutions;
- Information on implementation of international human rights obligations, national legislation and voluntary commitments; as well as national human rights institutions, public awareness of human rights and cooperation with human rights mechanisms;
- Information on achievements and best practice, as well as challenges and constraints;
- Key national priorities and initiatives to overcome challenges and constraints and improve the human rights situation;
- Expectations for capacity-building and requests for technical assistance;
- Follow up of previous reviews (beginning in the second cycle of review in 2012).

## Who will carry out the review?

The review of all UN Member States will take place in the UPR Working Group, composed of the 47 Members of the Council, and chaired by the President of the Council. Each Member of the Council will decide on the composition of its delegation to the UPR Working Group and may decide to include human rights experts in its delegation.

The Council will select a group of three Rapporteurs, the *Rapporteur Troika*, to facilitate each review. These Rapporteurs will be chosen from among the 47 Members of the Council and each member of a Troika will come from a different UN Regional Group. The State under review may request that one of the Rapporteurs be from its own Regional Group and may also object to a selected Rapporteur; however, *it may do so only once*. A Rapporteur may also request to be excused from a particular country review, in which case another Rapporteur will be selected. There is no set limit to the number of times a Rapporteur may request to be excused.

## What will be the sequence of events in a typical review?

(Please note that timelines for these steps are under development)

- The State undertakes a broad national consultation in preparation of national information (report) for the review, including with NGOs;
- The State prepares a national report of no more than 20 pages to be ready in time to ensure the distribution of the report simultaneously in the six UN official languages six weeks prior to the review in the UPR Working Group in accordance with the UN's "six-week rule" for document distribution;
- The OHCHR prepares two documents, each of no more than 10 pages: one is a compilation of information from the treaty bodies, Special Procedures and other UN bodies; the second a summary of other "credible and reliable information", e.g. from NGOs. Both documents will also be available in all UN official languages in accordance with the "six-week rule";

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<sup>4</sup> HRC decision 6/102

- The *Troika Rapporteurs* may collate issues and questions (but are not required to do so) to facilitate and focus the review; they would transmit these to the country concerned to assist in the preparation of the review;
- The State engages in a three-hour interactive dialogue with the UPR Working Group. In addition to Members of the Council, observer States may also participate. NGOs may attend, but may not take the floor;
- The *Troika Rapporteurs* prepare a report of the review with a summary of the proceedings, recommendations and any voluntary commitments by the State;
- The report of the review is adopted in the UPR Working Group. A reasonable period of time will be allowed between the inter-active dialogue and the adoption of the report in the Working Group. Half an hour is allocated for the adoption of the report. The reviewed State is to be fully involved and may indicate which recommendations it supports; however, it cannot veto any of the recommendations;
- The outcome of the review is submitted to a regular session of the Council for adoption. (There is a standing agenda item on the UPR on the Council's agenda.) Up to one hour is to be allocated for the Council's adoption of the outcome. The State concerned, Members of the Council, Observer States, and other relevant stakeholders (e.g. NGOs ) are to be given the opportunity to express their views on the outcome before the Council plenary acts on it;
- The Council adopts the outcome of the review and decides if and when specific follow up will be necessary;
- The outcome of the review should be implemented primarily by the State concerned and, as appropriate, by other relevant stakeholders;
- The state of implementation of the review is to be reviewed in the subsequent review of a State (i.e. up to four years later).

### **What form will the review take?**

The rules establishing the UPR speak of the review as the three-hour interactive dialogue between the State under review and Members of the Council. Observer States may participate as well, whereas “other relevant stakeholders”, such as NGOs, may only “attend” the interactive dialogue (this means that NGOs will not be able to make statements or ask questions of the country during the dialogue). Countries under review should be encouraged to ensure that national NGOs are able to observe the review, irrespective of their status with ECOSOC.

### **What could be the outcome of a review?**

Bearing in mind the emphasis on the UPR as a cooperative mechanism, the outcome is likely to be the result of a consensus-based process rather than a voting process. The reviewed State is to be fully involved in the outcome. This means, for example, that the State concerned may indicate in the outcome document which recommendations it supports and which it does not. However, it will not be able to veto recommendations. The regular decision-making procedural rules of the Human Rights Council apply to the adoption of the outcome.

The outcome document could include some or all of the following provisions:

- An assessment of the situation of human rights in the reviewed country, including positive developments and challenges faced by the State;
- Identification of best practices;
- Proposals for cooperation in the promotion and protection of human rights;

- Provision of technical assistance;
- Voluntary commitments by the State concerned.

### **How will a country review be followed up?**

When the Council adopts, in a regular session, the outcome of the UPR for a particular country it will also decide if and when follow-up is necessary. The outcome of the UPR should be implemented by the State concerned and by others, as appropriate, e.g. the OHCHR, UN country teams, or UN agencies. Subsequent reviews will consider the state of implementation of the outcome of the previous review.

### **What happens if a country does not cooperate with the UPR?**

In cases of persistent non-cooperation with the UPR mechanism, the Council will “address” such situations.

### **When does the review start?**

All 192 UN Member States will be reviewed over the four year period, 2008-2011. This means that 48 countries will be reviewed each year; 16 in each of the three annual sessions of the UPR Working Group. The first session will be held 7-18 April 2008; the second session 5-16 May, and the third session 1-12 December 2008. The sessions for the following three years have not yet been scheduled.

### **Which countries will be reviewed first?**

A chart has been drawn up, by drawing lots, assigning review slots to all 192 UN Member States over the four year period, 2008-2011. The selection of countries for 2008 is as follows:

#### **First session, 7-18 April 2008**

Algeria	Finland	Poland
Argentina	India	South Africa
Bahrain	Indonesia	Tunisia
Brazil	Morocco	United Kingdom
Czech Republic	Netherlands	
Ecuador	Philippines	

#### **Second session, 5-16 May 2008**

Benin	Republic of Korea	Switzerland
France	Mali	Tonga
Gabon	Pakistan	Ukraine
Ghana	Peru	Zambia
Guatemala	Romania	
Japan	Sri Lanka	

#### **Third session, 1-12 December 2008**

Bahamas	Colombia	Turkmenistan
Barbados	Israel	Tuvalu
Botswana	Liechtenstein	United Arab Emirates
Burkina Faso	Luxembourg	Uzbekistan
Burundi	Montenegro	
Cape Verde	Serbia	

The first outcomes of the UPR should be adopted by the Council at its eighth regular session in June 2008.

## **When will the *Troika Rapporteurs* be known for each country review?**

The Council is expected to begin the selection of the *Troika Rapporteurs* in late November or early December 2007.

## **How can NGOs participate in the UPR?**

There are a number of possible entry points in the UPR for NGOs. Some of these are stipulated in the rules governing the UPR; others are advocacy opportunities for NGOs. Efforts should be made to create good precedents for future reviews whenever possible.

### *National consultation prior to the development of the national report*

- Encouraging a broad national consultation to be held prior to the preparation of the national information (report) by the State to be reviewed;
- Participation in any national consultation, including by bringing human rights concerns to the attention of the State and suggesting measures to address these.

### *Information basis for the review*

- Submission of information to the OHCHR compilation of “other objective and credible information”;
- Publication, independently of the OHCHR compilation, of information pertaining to the situation of human rights in the country to be reviewed, with recommendations for addressing violations of human rights;
- Critique of the information (report) submitted by the country under review;
- Submission of written statements for inclusion in the formal record of the UPR Working Group;
- Submission of information to the treaty bodies and Special Procedures to generate observations and recommendations to be pursued in due course through the UPR.

### *Interactive dialogue in UPR Working Group*

- Lobby Council Members to include human rights experts in their delegation in the UPR Working Group;
- Lobby Council Members to put forward human rights experts as *Troika Rapporteurs*;
- Lobby *Troika Rapporteurs* to focus the review on critical human rights issues in the country under review, and to raise such issues and questions with the State prior to the inter-active dialogue;
- Lobby Council Members and Observer States to raise pertinent human rights issues and questions during the dialogue;
- Lobby *Troika Rapporteurs* to reflect key human rights concerns in the report on the review and to make recommendations to address human rights violations.

### *Outcome of the review*

- Lobby Members of the UPR Working Group to adopt a report of the review that addresses directly and transparently key human rights issues in the country under review;
- Critique the report of the review adopted by the UPR Working Group, as necessary.

### *Adoption of outcome of review*

- Submission of written statements in advance of the regular session which will consider the reports of the UPR;

- Deliver oral statements during the discussion under item 6 when the Council takes action on the outcome of the UPR;
- Lobby Members of the Council to ensure that the final outcome adopted adequately reflects key human rights concerns in the country reviewed and makes effective recommendations for addressing these;
- Lobby the Council to decide on specific follow-up.

#### *Implementation of review recommendations and commitments*

- Encourage the State reviewed to hold a broad national consultation to discuss the outcome of the review;
- Encourage the State reviewed to ensure full and prompt implementation of the outcome of the review, e.g. in bi-lateral contacts, through initiatives in the Council (e.g. raising situations under item 4), in the context of election to the Council, and in context of initiatives by other UN bodies, e.g. reviews by the treaty bodies, missions by Special Procedures, visits by the HCHR, etc.;
- Make reference to recommendations and commitments in correspondence and public documents on the country concerned;
- Encourage review of implementation of recommendations in subsequent UPR reviews of the country concerned.

### **Are NGOs limited to the formal procedures of the UPR?**

The UPR is likely to attract national or international media and public attention for many countries. Irrespective of what NGOs do in the formal review of such countries, the public interest generated by the UPR will offer a campaigning platform that NGOs should consider using.

### **Further background information**

Information available on the website of the Office of the High Commissioner for Human Rights:

- Country profiles: <http://www.ohchr.org/english/countries/>
- Schedule of countries coming up for review under the UPR: <http://www.ohchr.org/english/bodies/hrcouncil/upr/uprlist.pdf>
- HRC Resolution 5/1 which includes the procedures for the UPR: [http://ap.ohchr.org/documents/E/HRC/resolutions/A\\_HRC\\_RES\\_5\\_1.doc](http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_5_1.doc)
- HRC Decision 6/102: [http://ap.ohchr.org/documents/E/HRC/decisions/A\\_HRC\\_DEC\\_6\\_102.pdf](http://ap.ohchr.org/documents/E/HRC/decisions/A_HRC_DEC_6_102.pdf)
- Information note for NGOs on the UPR: [http://www.ohchr.org/english/bodies/hrcouncil/upr/noteNGO\\_041007.htm](http://www.ohchr.org/english/bodies/hrcouncil/upr/noteNGO_041007.htm)
- Information note for NHRIs on the UPR: [http://www.ohchr.org/english/bodies/hrcouncil/upr/noteNHRIs\\_041007.htm](http://www.ohchr.org/english/bodies/hrcouncil/upr/noteNHRIs_041007.htm)