

AMNESTY INTERNATIONAL

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

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What is the Universal Periodic Review?

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

The UPR process comprises:

- Preparation of the documentary bases by the State and other stakeholders, including through a consultation at the national level to prepare the State's input to the review, and submission of information by civil society organizations;
- A three-hour interactive dialogue in the UPR Working Group between the State under review and other UN Member States;
- Adoption by the UPR Working Group of the report of the outcome of the review;
- Adoption by the Council, at the following regular session, of the outcome of the review; and
- Follow-up and implementation by the State concerned and other stakeholders as relevant.

As a new mechanism of the Council, the UPR has yet to demonstrate that it will be effective in the promotion and protection of human rights. It is important that governments and other stakeholders, including NGOs, work constructively with 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 provides an opportunity to address in the UN's principal interstate human rights body country situations that were never the subject of consideration or action by the Commission on Human Rights.

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

No, the Council has available to it the possibility of country resolutions and other procedures that were also available in the Commission on Human Rights, including the confidential Complaints Procedures (which replaced the 1503 Procedure). We have yet to see how the Council will strike the balance between the UPR and other procedures for addressing country

situations, but it is clear from UN General Assembly resolution 60/251¹ 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 Office of the High Commissioner for Human Rights (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 during 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:²

1. Information prepared by the State under review. For most countries this information takes 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.³ The Council has encouraged States to prepare their information through a broad consultation process at the national level with all relevant stakeholders.⁴
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).⁵

¹ UN General Assembly Resolution 60/251, adopted 24 February 2006, establishing the Human Rights Council is available at http://www2.ohchr.org/english/bodies/hrcouncil/upr/noteNHRIs_041007.htm

² This information is available on the website of the OHCHR at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/search.aspx>

³ In the first two rounds of review only one country, South Africa, did not submit a written report in advance of its review, but did so only the day before the consideration by the UPR Working Group.

⁴ Human Rights Council resolution 5/1, Annex, para 15 (a)

⁵ 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/EN/Countries/Pages/HumanRightsintheWorld.aspx>

3. A summary, also prepared by the OHCHR, of additional “credible and reliable information” by other stakeholders, e.g. submissions by NGOs, women’s groups, national human rights institutions, labour unions, church groups (maximum 10 pages).

What is the national report likely to contain?

The Council has adopted guidelines for the preparation and content of the national information (report).⁶ 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, which may include human rights experts.

Three rapporteurs, a *Rapporteur Troika*, are selected from among the 47 Members of the Council, to facilitate each review. 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 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.

Despite the creation of the role of the *Rapporteur Troika*, the review is effectively carried out by those states that take the floor during the interactive dialogue or submit questions in advance to the state under review. The functions of the *Rapporteur Troika* have so far been limited to:

- relaying questions submitted in advance to the state under review;
- drafting the report of the interactive dialogue in the Working Group in consultation with the state under review and with the help of the UPR Secretariat;
- presenting the draft report to the UPR Working Group.

⁶ HRC decision 6/102, available on http://ap.ohchr.org/documents/E/HRC/decisions/A_HRC_DEC_6_102.pdf

What is the sequence of events in a typical review?

- The State undertakes a broad national consultation in preparation of national information (report) for the review, including with civil society groups, national human rights institutions and other stakeholders;
- The State prepares a national report of no more than 20 pages to be ready in time to ensure the distribution of the report 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: a compilation of information from the treaty bodies, Special Procedures and other UN bodies; and a summary of other "credible and reliable information", e.g. from NGOs and national human rights institutions?. Both documents will also be available in all UN official languages in accordance with the "six-week rule";
- The *Troika Rapporteurs* may collate issues and questions for transmission to the State under review no later than 10 days before the review. The state under review may address these questions during its presentation to the UPR Working Group;
- The State engages in a three-hour interactive dialogue with UN Member States (Members of the Council as well as Observer States). NGOs may attend the interactive dialogue, but may not take the floor;
- The *Troika Rapporteurs* prepare a report of the outcome of the review in the Working Group in cooperation with the State under review and the UPR Secretariat. The report includes a summary of the proceedings and recommendations made by Member States during the dialogue;
- The report of the outcome of the review is adopted by consensus in the UPR Working Group at least 48 hours after the interactive dialogue. Thirty minutes are allocated for the adoption of each report in the Working Group. The reviewed State may indicate which recommendations it supports and these will be identified as such in the report. Other recommendations will be noted in the report;
- The review outcome report is submitted to the next regular session of the Council for adoption, under the standing agenda item on the UPR on the Council's agenda. Up to one hour is allocated for the Council's adoption of the outcome. The State concerned, Members of the Council, Observer States, and other relevant stakeholders, including NGOs (with the necessary ECOSOC accreditation) may express their views on the outcome before the Council plenary acts on it;
- The Council adopts the outcome of the review through a procedural decision which appends the further views by the State under review to recommendations made in the review and well as its voluntary commitments;
- 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 will be reviewed in the subsequent review of a State (i.e. four years later), as well in any updates to the Council by the State under review.

What form will the review take?

A key element of the review is the three-hour interactive dialogue between the State under review and Members of the Council and Observer States. "Other relevant stakeholders", such as NGOs, may only "attend" the inter-active dialogue which means that NGOs will not be able to make statements or ask questions of the country during the dialogue. The State under

review is allocated a total of one hour to present its report, respond to issues and questions raised by other Member States, and to make any concluding comments. The remaining two hours are available to Council Members and Observer States to make comments, ask questions and make recommendations. Considering speaking times of three minutes for Council members and two minutes for Observer States, the list of speakers is likely to accommodate between 40-45 States.

What will be the outcome of a review?

The outcome of a country review is adopted in two stages: first in the UPR Working Group and then in the Council plenary.

After the conclusion of the interactive dialogue, the *Rapporteur Troika*, assisted by the UPR secretariat and in consultation with the State under review, will compile a report of the review summarising the presentation by the State under review, issues and questions raised by reviewing States, responses to these by the State under review, and a list of recommendations made. The reviewed State may indicate in the report which recommendations its supports and which it does not. The outcome report is presented to the UPR Working Group at least 48 hours after the conclusion of the interactive dialogue for adoption.

The adopted report is then forwarded to the Council for consideration and adopted at the next regular session. There is a standing item on the UPR on the Council's agenda, and up to one hour set aside for the adoption of each outcome report.

How will a country review be followed up?

The outcome of the UPR should be implemented by the State reviewed and others, as appropriate. States that have already been reviewed may decide to give an update to the Council on efforts to implement the recommendations made in their review, e.g. under Item 6 on the UPR. Subsequent reviews will consider the state of implementation of the recommendations made in previous reviews.

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. Fortunately, this has not yet been the case; rather the level of cooperation by States in the review process has been good.

When did the review start?

All 192 UN Member States are being 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. See the overview attached.

How can NGOs participate in the UPR?

There are a number of opportunities for NGOs to contribute to and participate in country reviews under the UPR. Some of these are stipulated in the rules governing the UPR; others are advocacy opportunities on the fringes of the process. Whenever possible, and especially in the first few years of the UPR, efforts should be made to create good precedents for future reviews.

National consultation prior to the development of the national report

- Encourage the government to hold a broad national consultation prior to the preparation of the national report or other information;

- Alert civil society contacts to the UPR process and encourage the widest possible engagement in such national consultation;
- Participate in national consultations related to the UPR, including by bringing human rights concerns to the attention of the State and suggesting measures to address these;
- Encourage regular meetings with government contacts throughout the UPR process.

Information basis for the review

- Submit information to the OHCHR for inclusion in the compilation of “other objective and credible information”;
- Disseminate information pertaining to the situation of human rights in the country to be reviewed, with recommendations for addressing violations of human rights;
- Submit 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 reviewing States to include human rights experts in their delegation in the UPR Working Group;
- Lobby reviewing States (both Council Members and Observer States) to raise pertinent human rights issues and questions during the dialogue and to propose concrete recommendations to address human rights concerns and enhance respect for human rights in the country under review;

Outcome of the review

- Lobby the State under review to support key recommendations made during the review and to make voluntary commitments to address human concerns and enhance respect for human rights.
- Review and make comments on the report of the review adopted by the UPR Working Group, e.g. in the form of written statements to the OHCHR for inclusion in the documentation pertaining to the session of the Council that will adopt the outcome of the review.

Adoption of outcome of review

- Submit written statements in advance of the regular session which will consider the reports of the UPR;
- Deliver oral statements assessing the outcome of the review prior to the adoption by the Council of 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 implementation of 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.

How can NGOs submit information for country reviews under the UPR?

Civil society groups and organizations may make submissions of information on a specific country coming up for review. Such submissions will be considered for inclusion in one of the three official documents which form the basis of the review, i.e. the summary of “other objective and credible information” prepared by the OHCHR.

NGO submissions should not exceed five pages unless submitted as part of an NGO coalition, in which case submissions can be extended to ten pages. More information on how to make submissions and the deadlines for these can be found on the webpage of the OHCHR at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/TechnicalGuide.aspx>

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:

- Information prepared for the UPR process, including state report, compilation of UN information and summary of stakeholder information:
<http://www.ohchr.org/EN/HRBodies/UPR/Pages/search.aspx>
- Schedule of countries coming up for review under the UPR:
<http://www2.ohchr.org/english/bodies/hrcouncil/upr/uprlist.pdf>
- HRC Resolution 5/1 which includes the modalities for the UPR:
http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_5_1.doc
- HRC Decision 6/102 which sets out parameters for information submitted for the UPR:
http://ap.ohchr.org/documents/E/HRC/decisions/A_HRC_DEC_6_102.pdf
- Information note for NGOs on the UPR:
http://www2.ohchr.org/english/bodies/hrcouncil/upr/noteNGO_041007.htm
- Information note for NHRIs in the UPR:
http://www2.ohchr.org/english/bodies/hrcouncil/upr/noteNHRIs_041007.htm
- Country profiles:
<http://www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx>