



Ensuring sustainable UPR implementation

**A call to action for States to strengthen the
third cycle of the Universal Periodic Review**

INTRODUCTION

As the international community looks towards the third cycle of the Universal Periodic Review (UPR), it must reflect on both its successes and shortcomings to date. In this regard, numerous discussions are taking place around what needs to be changed in the modalities, rules and functioning of the mechanism to ensure that this third cycle delivers concrete impact on the ground. *UPR Info* believes that for the third UPR cycle to be effective, the Human Rights Council (HRC) need not change the modalities; rather the call to action must lie primarily at the door of all UN Member States. It is the States that are the driving force of the UPR. They are ultimately responsible for the functioning of this international human rights mechanism. Nine years since the beginning of the UPR, the international community now has the benefit of hindsight with which it can assess what has worked at the UPR and what can be considered as good practice.

Indeed, for an effective third cycle, two elements of the UPR process must be prioritised by States: **implementation**, and **reporting**. Firstly, implementation of recommendations is the ultimate aim of the UPR process; to improve human rights in all countries.¹ The area of implementation has to be strengthened and sustained. Secondly, reporting comprehensively on human rights developments is the only way States can be held to account. It is through effective reporting that assessments can be carried out and that new, specific, and tailored recommendations can be made.

This paper focuses on each of these priority areas from the perspective of both the **State under Review** and that of the **recommending States** at the UPR.

For a successful third cycle of the UPR States must **ensure sustainable implementation** of recommendations. This paper calls on all States to take the following specific actions to achieve this goal.

¹ As laid out in resolution A/HRC/RES/16/21, “the second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the developments of the human rights situation in the State under review.”

Actions for the State under Review

IMPLEMENTATION

1/Respond clearly to all recommendations

As stated by resolution A/HRC/RES/5/1, UPR recommendations can be either **supported** or **noted**.² With the third cycle approaching, responses such as; “accepted partially”, “accepted in principle”, “accepted but already implemented”, “not relevant”, and “rejected” have become common place. However, clear responses are key for the effective implementation of recommendations. ‘Supported’ or ‘Noted’ clearly determine the recommendations that will be a priority for the SuR and helps recommending States monitor implementation. If the SuR deems a recommendation to be too broad, or containing more than one element, it should then split the recommendation and explain which section it supports or notes. If the recommendation is deemed too vague, the SuR should ask for further clarification from the recommending State before the adoption of the Working Group Report.

² “Recommendations that enjoy the support of the State concerned will be identified as such. Other recommendations, together with the comments of the State concerned thereon, will be noted.”

2/Establish a National Mechanism for Reporting and Follow-up

National Mechanisms for Reporting and Follow-up (NMRF) are the condition *sine qua non* for the sustainable implementation of recommendations. Without a NMRF, it can prove difficult for governments to maintain regular follow-up and reporting. NMRFs should include the following elements:

- a) **Structure:** The mechanism should be standing (permanent) and inter-ministerial (each relevant ministry should have a focal point). Ideally, it would have its own secretariat and budget, and should be placed under the auspices of the Prime Minister’s office;
- b) **Capacities:** The mechanism should be able to coordinate and consult (regularly) with the judiciary, the parliament, national human rights institutions (NHRIs), civil society organisations (CSOs), and United Nations agencies;
- c) **Tools:** The mechanism should be equipped with a database of all human rights recommendations received at the international and regional levels (UPR, treaty bodies, special procedures, and regional mechanisms). It is highly recommended to also link the database to the Sustainable Development Goals (SDGs). This database should be public, and the NMRF should update it regularly with the progress made in implementing the recommendations.

3/Consult and work with civil society

Civil society is a key stakeholder of the UPR process. They can share their expertise on specific issues, provide guidance on how to implement recommendations, and become a key implementing partner. The consultations with CSOs should be:

- a) **Regular:** Every six months the government and/or the NMRF should consult CSOs to both update them on progress made, and to ask their advice on additional activities needed to implement recommendations;
- b) **Inclusive:** All types of organisations should be invited, regardless of their structure (international, national, grassroots, unions, associations) or thematic focus (civil and political rights, economic, social and cultural rights).
- c) **Effective:** CSOs should be in a position to actually be a key implementing partner and to provide relevant information that would effectively be included in outcome papers and reports.

4/Develop a human rights action plan

A human rights action plan is necessary to identify the ministries responsible for implementation and to develop SMART indicators³ to measure implementation. It should ideally encompass the recommendations received from all human rights mechanisms, not solely the UPR.

It should be developed by the government and the NMRF, in collaboration with the NHRI (if existing) and civil society.

³ SMART indicators refer to Specific, Measurable, Actionable, Relevant and Time-bound indicators.

REPORTING

1/Report, one year after the adoption, on five recommendations

States should commit to reporting on **five recommendations** of their choice to the HRC. This is to encourage States to start working on the implementation immediately after their review and to strengthen the culture of reporting. This commitment should be voluntary; however, engaging in this opportunity would highlight the State's commitment to the UPR and to improving human rights. This report could be delivered orally during the Item 6 General Debate held 12 months after the adoption of their UPR Working Group report.⁴

⁴ Similar reporting procedures are already in place at treaty bodies.

2/Report at mid-term

With a longer cycle between reviews, now five years, as a consequence of the postponement of the third cycle to spring 2017, mid-term reporting has become even more important. Two and a half years after their review, States should provide the HRC, under Item 6 General Debate, with a progress report on their received recommendations.

3/Report on all received recommendations in the National Report

To conduct a genuine assessment of the human rights situation and the status of implementation of previous recommendations in the SuR, the international community requires comprehensive information. To this end, the SuR should provide information on **all** recommendations received in its National Report, including **noted** recommendations regardless of their progress. *UPR Info's* report "Beyond promises", published in 2014, demonstrated that one out of five of noted recommendations can trigger action from governments. This comprehensive reporting would benefit from including this information in the format of a grid, either in the national report, as in the cases of Mali and Sri Lanka, or in an annex, as in the cases of Colombia and South Africa.

Actions for Recommending States

IMPLEMENTATION

1/Make precise and action-oriented recommendations

Quality recommendations are the basis of a quality implementation. Recommending States have great power to influence the implementation process by putting forward precise and action-oriented recommendations. To this end, each recommendation should include a single and specific issue and a single and specific action. The SMART method should also be followed.

2/Request clear responses to recommendations and implementation plans

Recommending States should use their allotted time, during the adoption of UPR reports at the HRC, to secure explanations to responses and push for the best conditions for UPR implementation. Questions could concentrate on, but should not be limited to, the following two elements:

- a) Seeking clarification on the responses to recommendations provided by the SuR, therefore ensuring recommendations are either **supported** or **noted**;
- b) Requesting further details on implementation plans, at which point technical assistance and South-South cooperation should be offered to the SuR.

3/Continue bilateral dialogue with the SuR at the national level

Permanent Missions in Geneva should send the recommendations made during the review to embassies/posts in the SuR in order to inform the embassy of the outcome of the review in Geneva. These recommendations should then form part of the discussions between the recommending States and the SuR in their bilateral relations, such as during their bilateral human rights dialogues.

4/Support civil society both financially and politically

A successful UPR process requires full civil society engagement and therefore CSOs must be supported by recommending States through their embassies located in the SuR, for instance. This support should, but not exclusively, be provided at two different levels:

- a) **Financially:** Ensure that CSOs, especially local and grassroots organisations, have the means to conduct advocacy campaigns and to monitor implementation of recommendations;
- b) **Politically:** Ensure that CSOs are free to work on the UPR and that they are regularly consulted by the government. CSOs should be protected against any sort of reprisals due to their work.

1/Submit advance questions on the implementation

Advance questions are useful tools of the UPR mechanism as they allow for the SuR to prepare for their review more thoroughly. They moreover contribute to shaping the focus of the interactive dialogue during the review. Submitting questions in advance also increases the likelihood that the SuR will provide either specific information on the status of implementation regarding certain recommendations, and/or key details of any significant development since the previous review.

2/Refer to previous recommendations

At each review, recommending States should refer to the previous recommendations they made to the SuR. The role of the recommending State is to both scrutinise the current human rights situation in the SuR, and monitor the implementation of previous recommendations. To increase the accountability of the SuR, States should recall previous recommendations and, if no action has taken place, these recommendations should be repeated. Phrases that emphasise the lack of implementation and necessity for repetition, for example “as previously recommended”, should be added to the recommendations. Knowing that States will thoroughly examine implementation and revisit recommendations is an added incentive for the SuR to take concrete steps to deliver implementation of their UPR recommendations.

3/Use Item 6 General Debate

The HRC Item 6 General Debate is occasionally used by the SuR to provide a progress report on their implementation of recommendations. Recommending States tend not to engage with the General Debate; however, it provides a platform from which States can ask about implementation and is especially useful if the situation in a SuR has changed since the review. Engaging more effectively in this General Debate would increase the capacity of the UPR mechanism to react and respond to recent developments. With more flexibility to address the implementation of UPR recommendations, regardless of the date of the next review, States can engage on pressing human rights issues, while the SuR would also be encouraged to provide regular updates to the HRC.



Rue de Varembe 3, 1202 Geneva, Switzerland
+ 41 (0) 22 321 77 70 info@upr-info.org



<http://www.upr-info.org>



<http://twitter.com/UPRInfo>



<http://www.facebook.com/UPRInfo>