
Introduction to the Universal Periodic Review Process*

Background

The now defunct UN Commission on Human Rights examined and monitored human rights concerns on a selective country-by-country basis. The Commission was discredited by its perceived politicisation, which hindered constructive dialogue on human rights issues. In 2006, the Human Rights Council replaced the Commission and, together with other changes, introduced the new UPR mechanism under Resolution 5/1.¹

The UPR treats every country equally and it was hoped that the previous controversial approach to country situations and resolutions would be replaced by objective assessments. While country-specific resolutions still exist in the Human Rights Council, the UPR process has meant that all countries' human rights policies and situations are scrutinised and that every state is subject to equal treatment by the international community.

The technical characteristics stipulated in Resolution 5/1 called for a comprehensive process both in relation to member states and to the rights covered by the exercise. A unique feature of the UPR process is the three-dimensional approach wherein a country must make its own self-assessment in a national report and is also reviewed against information contained in the reports of UN treaty bodies, independent experts (known as special procedures) and other UN bodies, as well as information compiled from reports of national human rights institutions (NHRIs) and non-governmental organisations (NGOs). These features make the UPR an unprecedented system of monitoring compliance with human rights obligations.

Why is the UPR mechanism important?

The UPR has much potential because it provides a detailed account of the human rights situation on the ground. To benefit from the UPR exercise, countries should subject themselves to honest and genuine critical self-assessment in evaluating achievements and challenges. The UPR mechanism is not intended to be a self-congratulatory mechanism.

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The UPR mechanism is also important for encouraging international co-operation, which can help to achieve the mainstreaming of human rights. In this context, the UPR has huge potential for paving the way for a conceptual shift from co-existence to co-operation. For the first time, the UPR brings together the right to criticise and an obligation to co-operate on practical steps to establishing better human rights in a given country.

How to prepare the state report

Resolution 5/1 and the guidelines for the state report² emphasise the need for a broad consultative process. An ideal state report should be a genuine depiction of human rights at the national level. The state should also move ahead from the traditional narrative and descriptive style of reporting and instead evaluate both its achievements and its shortcomings. Such a shift in reporting will contribute significantly towards addressing real issues and concerns.

If absolutely necessary, the reports can be oral, but they should cover the following: country background; a human rights vision; an analysis of the situation in terms of achievements, obstacles, intentions and commitments for the future; and expectations with respect to international co-operation.

The national preparatory process guarantees added value to the stakeholders (NHRIs and NGOs) as the UPR process calls for structural and compulsory dialogue at national level. Countries that have a free press and independent civil society will find that the consultative processes will have even greater value.

Weighing up the UPR process

The UPR mechanism has both weak and strong points. The fact that the country undergoing review can determine the issues under discussion, the conduct of operation and even the outcomes of the whole exercise may be a potential weakness of the system. Under the UPR process, member states are at the same time both parties and judges. Although this is inherent in any peer review exercise, it is hoped that bilateral relations will influence debate and that the collegial nature of the exercise will go some way towards meeting this relatively weak point.

Further to the strong attributes mentioned earlier, an outstanding feature is that, for the first time, the process for monitoring and examining human rights by the international community is focused on a bottom-up approach. This is through NHRIs and NGOs providing substantial reference to the realities on the ground through stakeholder reports.

There is much potential for the UPR process to be successful in protecting and promoting human rights – though this depends entirely on how the member states engage and participate in the process. It is certainly an opportunity for all countries – developed and developing, North and South – to be subject to the same treatment. As indicated above, the UPR process has much potential for promoting and protecting human rights on the ground and relies upon the full involvement of states, NHRIs and civil society organisations for the realisation of this potential.



UPR seminar for Commonwealth countries reporting in 2008, Commonwealth Secretariat, London, March 2008.