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# Identifying best practices:

# An Analysis of National Reports

2015

## Introduction

The Universal Periodic Review (UPR) is based on three documents: a National report prepared by the State concerned on the human rights situation in the country; a Compilation prepared by the Office of the High Commissioner on Human Rights (OHCHR) containing information from treaty bodies, special procedures and UN agencies; and a Summary prepared by the OHCHR containing information from other stakeholders such as national human rights institutions and civil society organisations.

Given the importance of these documents, reporting becomes a key factor not only for achieving an accurate picture of the human rights situation of the country but also to ensure a smooth running of the mechanism and a logical sequence between cycles.

Therefore, *UPR Info* has considered useful to analyse the reporting practices by States under Review in order to identify patterns and best practices and to provide States with suggestions in order to improve the quality of their own reports.

With this purpose in mind, this analysis is the result of a study of a total of 84 national reports submitted by States reviewed during the first six sessions of the second UPR cycle (sessions 13 to 18 - May 2012 to January 2014). This study intends to identify best practices that States have taken on board while reporting on the human rights situation in their country. In addition, it also underlines other aspects that *UPR Info* believes can be strengthened thus improving the quality of documents. The analysis focuses on the scope and layout of the national reports, the current trends when reporting on the follow-up and the participation of civil society in the drafting process.

This analysis is divided in four parts: the first section provides an overview of the scope and the layout of the national reports during the period analysed. It intends



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to explain the different approaches undertaken by the States to draft the report and to identify best practices. The second section addresses the information provided by the annexes of several reports, and highlights those annexes that are considered to be more useful in assessing the human rights situation in the country. The third section focuses on how States provide information on the follow-up and implementation of recommendations. Finally, the fourth section explains how and through which mechanisms civil society has been included during the drafting of the national reports.



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## 1. Best Practices

After an in-depth analysis of the 84 national reports, *UPR Info* has identified the following best practices that States have put in place and therefore believes that they should be considered by all States at the time of writing the national report:

- ✓ Focus on providing **information concerning the recommendations** received during the previous review, and on reporting on the new developments and constraints in relation to the human rights situation during the period between reviews;
- ✓ Report on the implementation (or the lack of it) of **all accepted and noted** recommendations received during the previous review, and link the information provided to specific recommendations;
- ✓ Report on the improvements made concerning the **voluntary pledges** made during the previous cycle;
- ✓ Avoid including information dating from before the previous review unless it is necessary to understand the developments between reviews;
- ✓ Detail the outcome of the **consultations with civil society** organisations (CSOs);
- ✓ **Use annexes**, in English, to report on additional information to facilitate the assessment of the performance of the State during the review. The use of a table to show the level of implementation of each recommendation is strongly encouraged.

## 2. Scope and layout of the reports

It is important to limit the scope of the national reports since, according to the Human Rights Council (HRC) Resolution 5/1, the report should not exceed 10,700 words 'to guarantee equal treatment of all States and not to overburden the mechanism'. Along the same line of thought, finding the most efficient layout is crucial in making the best use of these 20 pages in order to assure that other stakeholders will receive a comprehensive presentation of the developments concerning the human rights situation since the last review.

In decision A/HRC/DEC/17/119<sup>1</sup>, the HRC adopted General Guidelines for the preparation of the reports. The Council addresses different issues and suggests a list of information that States should include in their national reports.

As the Guidelines highlight, the information provided in the national reports should be focused on providing answers and information concerning the implementation of the recommendations received during the previous review, and to report on new developments and constraints concerning the human rights situation between reviews. Since national reports have a word limit, States should ensure that all necessary information is provided, while additional and complementary data can be left out or provided in an annex.

The majority of States follow these guidelines. For instance in its reports for the second cycle, Mali specifies in each section that the information provided concerns developments since the first review. However, there are some countries that extensively explain measures that had been adopted years before the previous review. *UPR Info* believes that due to the word limit of national reports, such information should only be provided as far as it is necessary to understand the

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<sup>1</sup> Available here : <http://www.upr-info.org/en/upr-process/resolutions-and-decision>

current developments. Thus, the majority of attention should be paid to the new developments which have occurred since the previous review.

During the period analysed, only 17% of States, including Ecuador and Vanuatu, followed the exact layout suggested by the HRC General Guidelines. However, it should be noted that there are other reports that do not follow the Guidelines exactly, but nonetheless adopt a very similar layout. Thus the reports of Burkina Faso, Cyprus, Djibouti, Finland, Germany, Guatemala, Nigeria, Senegal, and Uzbekistan are only missing one of the sections suggested by the HRC.

According to the General Guidelines for the preparation of information under the UPR provided by the 17/119 HRC decision, the national report of the State under review (SuR) should include the following:

**A) Description of the methodology and the broad consultation process followed for the preparation of information provided under the UPR;**

94% of the national reports analysed include a specific section on the methodology. Moreover, two out of the five countries that did not provide a specific section on this issue (*i.e.* Cambodia and Central African Republic) mentioned the methodology used for the drafting of the report in their 'Introduction' section.

The 'Methodology' section usually responds to the following questions: "Who was in charge of writing the national report? Did the government hold national consultations? Who participated in those national consultations?" Nevertheless, most States do not report on the content and outcome of the consultations. In fact, only three countries – Lichtenstein, Switzerland and Tunisia – included a specific section which further developed the consultation process with civil society organisations. This section notably mentioned the recommendations and suggestions made by those organisations during the consultations. Following a similar idea, Chile and Morocco provided such information in the annexes. Further information on the participation of civil society in the drafting process of national reports will be provided in section IV.

## DO

- Explain who was in charge of writing the national report and the process followed for its drafting;
- Indicate which CSOs were involved in the drafting process and how they were involved;
- Briefly summarise the outcome of the consultations with CSOs. This information can be included in an annex.

## DON'T

- Limit the information provided to the following (or similar) statements: 'The report is drafted in accordance with the guidelines of Resolution 60/251 of the United Nations General Assembly and Resolution 5/1 and Decision 17/119 of the Human Rights Council'. More detailed information on the methodology used should be provided.

**B) Developments since the previous review in background of the State under review and framework, particularly normative and institutional framework, for the promotion and protection of human rights: Constitution, legislation, policy measures, national jurisprudence, human rights infrastructure including national human rights institutions and scope of international obligations**

77% of the national reports include a specific section on the institutional framework for the promotion and protection of human rights, and 82% include a section on the legal framework. The institutional and legal frameworks are often explained under the same section, such as in the case of New Zealand or Slovakia. It is important to briefly introduce those frameworks since they will help other stakeholders to understand both the new institutional and legal developments



concerning human rights, and also to contextualise the rest of the issues addressed in the report.

## DO

- Emphasise new legal and institutional framework developments since the last review.

## DON'T

- Mention laws/institutions adopted/created before the last review.

**C) Promotion and protection of human rights on the ground: implementation of international human rights, national legislation and voluntary commitments, national human rights institutions activities, public awareness of human rights, cooperation with human rights mechanisms;**

The UPR is based on the obligations of States resulting from: the Charter of the United Nations; the Universal Declaration of Human Rights; the human rights instruments to which a State is party to; the Voluntary pledges and commitments made by States, including those undertaken when presenting their candidatures for the election to the HRC; and applicable international humanitarian law. Accordingly, 49% of the reports include (in this section) the progress made and measures taken in the area of the promotion and protection of human rights in compliance with their particular human rights obligations. The issues addressed in this section can vary greatly. They often include the adoption of National Action Plans (NAPs) on human rights or similar crosscutting measures undertaken in order to improve the overall human rights situation. NAPs may also aim to tackle a specific issue, such as gender based violence.

This section has a wide scope and is often referred to by other names such as 'New developments since the previous review' (Algeria); 'Promotion and protection of

human rights' (Burundi); 'Overview of the promotion and protection of human rights in Viet Nam since the last review' (Viet Nam); and 'Government's efforts to improve the human rights situation' (Yemen).

## DO

- ☑ Refer to the adoption (if any) of National Action Plans, Policies or Programs on Human Rights or other similar crosscutting measures undertaken since the last review in order to improve the overall human rights situation or to tackle a specific issue;
- ☑ When appropriate, make specific references to the recommendations received during the previous review, when the implementation of these recommendations is explained in this section.

## DON'T

- ☒ Mostly refer to measures taken before the last review;
- ☒ Tackle specific issues that will be addressed in other parts of the national report, as repetitions should be avoided.

### **D) Presentation by the State concerned of the follow-up to the previous review;**

The majority of States provide information on the follow-up to the previous review and explain the different measures undertaken to implement the recommendations received, while 11% of national reports do not specifically address the follow-up. Two of the national reports that do not address the implementation of the recommendations (*i.e.* India and South Africa) include an annex that provides all relevant information related to the follow-up.

Furthermore, some States, such as Monaco, also provide information on the implementation of the voluntary pledges and commitments undertaken during the previous review.

This section has been also referred to as: ‘Follow-up to the previous review’ (Algeria); ‘Implementation of accepted recommendations and voluntary commitments’ (Philippines); ‘Follow up on accepted recommendations’ (United Arab Emirates); *etc.*

With regard to the layout, it is worth noting that the national report from Turkmenistan focuses exclusively on the measures taken in order to implement the recommendations received during the first review. The government does not provide any other kind of information such as the legal framework in the promotion and protection of human rights or the State’s national priorities. Therefore, Section ‘D’ is the only existing section in Turkmenistan’s report. A similar idea is followed by countries such as Gabon, Tonga and Uruguay.

On the other hand, there are some countries such as Colombia, India, and South Africa that decide not to address the follow-up (Section ‘D’) to the previous review in their national reports but rather address it in an annex. In the annex they provide information concerning specific measures undertaken in order to implement each one of the recommendations received. However, confining the information on the follow-up to the annexes might be counterproductive since the annexes are not translated into all official UN languages. Consequently, the information provided will not necessarily be accessible by all stakeholders.

Further details regarding how States present information concerning the implementation will be provided in section III.

## DO

- Report on the implementation of all recommendations received during the previous review;
- Report on the voluntary commitments/pledges made in the previous review (if any).

## DON'T

- Consign all the information concerning the follow-up to the annexes.

### **E) Identification of achievements, best practices, challenges and constraints in relation to the implementation of accepted recommendations and the development of human rights situations in the State;**

This section is included in most reports (71%), however it is often split into two different sections:

- **Challenges and Constraints:** This section briefly explains the challenges and constraints that the government faces at the time of promoting human rights and implementing the recommendations received in the last review. The issues addressed often have a crosscutting effect on the general situation on the ground, rather than a particular challenge affecting the fulfilment of specific human rights. For instance, Benin addresses poverty as a challenge to overcome, and the Philippines have referred to the difficulties of 'engaging the private sector as a partner in promoting human rights'.
- **Identification of achievements and best practices:** some national reports include a section briefly indicating the main achievements and best practices undertaken since the last review. Sometimes this section is explained together with the follow-up (such as in the case of Brazil's national report).

## DO

- ☑ Include achievements and best practices that have been achieved and the challenges that have arisen since last review;
- ☑ Briefly mention challenges that were already mentioned in the previous UPR but that the government had not been able to overcome during the review.

## DON'T

- ☒ Report only about the achievements. Information about the challenges will help to obtain a more comprehensive picture of the human rights situation;
- ☒ Use this section to excuse the lack of action in certain areas. Challenges may explain the limited repercussion of the State's policies, but they must not constitute a deterrent to further actions intending to overcome such challenges.

**F) Key national priorities, initiatives and commitments that the State concerned has undertaken and intends to undertake to overcome those challenges and constraints and improve human rights situations on the ground;**

The same rationale should apply in this section. In the period analysed, 50% of the national reports have included a specific section concerning at least one of the following elements: key national priorities, initiatives and commitments. Often in this section States also present the implementation of the voluntary commitments made during the last review and/or they introduce the new commitments for the upcoming review. This part of the national report reflects the political will of States to address certain issues by making them a priority and by investing more resources. It presents the government's aims for the future concerning human rights.

## DO

- Indicate what will be the main priorities of the country concerning human rights for the period between reviews;
- Indicate if the State is willing to undertake any new voluntary commitment.

### **G) Expectations of the State concerned in terms of capacity-building and requests, if any, for technical assistance and support received.**

29% of the national reports analysed include a section concerning the expectations of the State concerned in terms of capacity-building and/or the request for technical assistance by other stakeholders.

## DO

- Briefly explain the support that the country has been receiving from partners and organisations on the implementation of its human rights obligations;
- If needed, request additional technical and financial assistance from the international community in order to realise and implement human rights obligations arising from the UPR.

While States mostly follow the Guidelines developed by the HRC, better can be done by them to report on implementation. Decision A/HRC/DEC/17/119 itself does not always provide the best clarity and leads to repetition of information when followed exactly.

### 3. Annexes

There are several national reports that provide additional information in the form of an annex. The annexes are diverse in form and content. Some examples are: 'List of ratified international instruments' (Algeria); 'List of legislations and details about the steps taken to prevent violence against women' (Bangladesh); 'Training activities for law enforcement officials' (Cameroon); 'Jurisprudence' (India); and 'Copy of the provisions of the National Action Plan on Human Rights' (Morocco). However, as mentioned before, States should keep in mind that the utility of those additional documents can be inevitably limited since, unlike the main text of the national report, annexes are not translated into any other UN official language. Consequently, it is advisable to submit them in English in order to reach a higher number of stakeholders.

There are some annexes used by different States whose content has been extremely useful and for that reason they should receive a special mention:

- List of participants in the national consultation: Bangladesh, Cameroon and China provided a list of the governmental agencies, civil society organisations and other stakeholders that participated in the national consultations concerning the elaboration of the national report;
- Civil society recommendations/requests/complaints: As mentioned earlier, the national reports of Chile, Morocco and Tunisia provide annexes containing information about the outcome of the national consultations *i.e.* dates and processes followed in the consultations, concerns raised by civil society, suggested recommendations, complaints, *etc.*
- Table indicating the measures undertaken to implement each recommendation: The national reports of India, South Africa and United Arab Emirates provide this table. Switzerland's national report, adopting a similar

approach, provides an additional document that includes comments concerning all noted recommendations;

➤ Table indicating the measures undertaken to implement each recommendation and assessing the level of implementation (partially, totally or not at all implemented): Colombia is the only country that has included this type of annex. However, Mali and Sri Lanka also include a similar table in the main text of their national reports.

## DO

- Write the Annex in English;
- Include in the annexes additional information to facilitate the assessment of the performance of the State during the review.

## DON'T

- Use annexes to provide key information.



## 4. Presentation of the follow-up to the previous review

States have chosen different ways to present the information concerning the implementation of the recommendations received during their previous review. As pointed out before, 89% of countries included information concerning the follow-up (Section “D” of the Guidelines of the 17/119 Decision of the HRC) in their reports. This information is either divided by specific topics (such as ‘women’s rights’, ‘education’ or ‘judiciary system’) or by recommendations. In certain cases, some States such as the Philippines also address measures taken in order to implement the voluntary commitments made during the previous review.

While reporting on the follow-up some States only refer to the implementation of accepted recommendations. However, other countries such as Comoros, Mali, Senegal and Serbia also include information concerning the status of noted recommendations, either in the same or in a different section. This approach is believed to be a good practice by *UPR Info*, since ‘noting’ a recommendation does not prevent the government from eventually taking action towards its implementation. Furthermore, all recommendations made during the review are a reflection of the concerns of different States regarding the human rights situation within a particular country. As such, it is of interest to the international community and consequently to the UPR mechanism, to report on the measures (or the lack of) taken in relation to all the issues raised during the review.

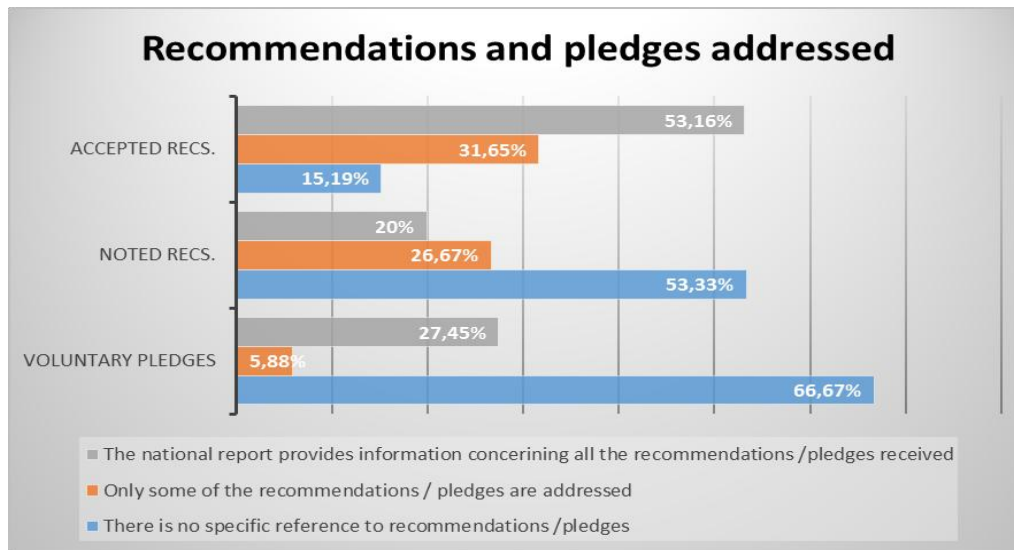
At this stage, it is worth drawing attention to the national reports of Mali and Sri Lanka. These States reported on the follow-up by providing a table showing all the recommendations and voluntary pledges and assessing their status, for example: No Action (not implemented), Ongoing (in progress) or Completed (implemented). As mentioned in the previous section, Colombia also included a similar table as an annex. These tables are extremely useful. On the one hand it encourages the SuR to

carry out a self-assessment of its own policies and practices. On the other hand, the inclusion of those tables facilitates the work of States making the recommendations to identify the level of implementation of those recommendations they made during the previous review. Thus, “recommending States” will be able to identify, when appropriate, the need to reiterate recommendations made in the last review.

In terms of how the national reports link the information provided to the recommendations received in the first cycle, some countries, while providing information on the follow-up, do not make any specific reference to the recommendations from the first review. In relation to accepted recommendations 12 out of 84 reports adopted this format. Concerning noted recommendations and voluntary commitments, the numbers were even higher, respectively 40 and 35 reports out of 84. These formats make it difficult to identify which measures the government has undertaken to implement each recommendation and voluntary commitment. This can lead to particular difficulties in assessing the performance of the State and in making accurate new recommendations.

Moreover, only a few reports refer to all the recommendations and voluntary pledges. Out of 79 states that accepted recommendations in the first cycle, only 53% of them referred to all accepted recommendations. In addition, out of 75 States that noted recommendations during the first review, only 20% of them cited all the noted recommendations received. In relation to the 51 States that made voluntary pledges during the first cycle, only 27% of the reports mention all of their commitments (see graphic below).

According to the graph below, overall States have not reported on all recommendations received and voluntary pledges. All governments should provide a comprehensive overview on each recommendation received, since the evaluation of the implementation is crucial to fully assess the performance of the SuR.



## DO

- Report on the implementation (or the lack of it) of all recommendations received during the previous review, including those noted;
- Report on the status of the voluntary pledges made during the previous cycle;
- Refer to each specific recommendation when providing information on follow-up in order to facilitate the assessment of the performance of the State in implementing the recommendations;
- Provide an assessment of the level of implementation of each recommendation (fully implemented, partially implemented, and not implemented).

## DON'T

- Only report on accepted recommendations;
- Provide information without referring to which recommendation the information concerns.

## 5. Participation of civil society in the drafting process

As stated by HRC Resolution A/HRC/RES/5/1, States are encouraged to prepare the information through a broad consultation process at the national level with all relevant stakeholders. To maintain a multi-stakeholder dialogue is a key factor to ensure the success of the UPR. In this sense, 88% of the countries reviewed during the 13th to 18th sessions have reported to have included civil society in drafting the national report (national consultations, regional meetings, online forums, *etc.*). At this point, it is essential to bear in mind that all statistics provided are based solely on the information included in the national reports. As a consequence, we are only able to report on the practices that were reflected in such documents and that the information has not been cross-checked.

70 out of the 84 national reports analysed (83%) stated that civil society had been included in the drafting process through national consultations. Such consultations are mainly held in the capital, though some countries, such as Guatemala, stated to have also held consultations in different regions. In some cases, such consultations were made up of committees. For instance, Burkina Faso set up a multispectral committee comprising government departments, institutions and civil society organisations to monitor the implementation and preparation of the report. Furthermore, following Bangladesh and Cameroon's examples, *UPR Info* encourages States to include in an annex the list of organisations that participated in those consultations.

In some other cases, including Brazil and the United Arab Emirates, the government opted for making a draft national report available on their website to allow civil society and other interested stakeholders to submit their comments via the website, email or, as Finland did, via online discussion forums. In some cases, this procedure was used as an additional measure after holding national consultations.

In addition to the inclusion of civil society during the drafting process, 17% of countries stated that they had organised workshops and seminars with the participation of civil society organisations, to raise awareness about the UPR mechanism and to provide them with the necessary information to get involved. Some examples of countries that claim to have carried out such events are Colombia, Guatemala and Tunisia.

However, despite most countries having included the participation of civil society in their draft reports, only five countries included either in the main report or as an annex, a specific section underlining the outcome of those national consultations and the feedback received by the members of their civil society. These five countries, namely Chile, Liechtenstein, Morocco, Switzerland, and Tunisia, explain the main concerns and recommendations of the CSOs that took part in consultations.

## DO

- Include civil society in the drafting process;
- List the time and locations of the national consultations;
- Describe the nature and format of the national consultations;
- Include a list of CSOs and other stakeholders that participated in the national consultations or in other procedures used by the State to promote the participation of civil society in the drafting process;
- Include in the national report the outcome of the national consultations or of any other procedures that include the participation of civil society organisations and other stakeholders.

## 6. Conclusion

National reports are important tools to ensure a fair and objective review of a country's human rights situation. They contain useful information and updates on the implementation of previous recommendations and can therefore help recommending States in addressing the key issues at stake. With that perspective in mind, this study identifies best practices from States while highlighting issues that need to be further addressed, in particular the reporting on implementation and the consultation of civil society.

As stated in this study, reporting on the implementation of previous recommendations is of paramount importance to ensure accountability and continuous progression from one review to another. In that sense, most States have undertaken good practices on reporting on recommendations. However, only half of States actually reported on all accepted recommendations, or included information on noted recommendations, and only one third reported on the implementation of voluntary pledges. The SuR should pay further attention to address all recommendations received during the previous review since this information is paramount in order to assess the performance of the State during the cycle. Clearer, simpler and shorter Guidelines from the HRC on how to report on implementation would greatly improve the quality of national reports.

The participation of civil society is also a key element of the UPR since the improvement of human rights is contingent on multi-stakeholder dialogue. In fact, 88% of the countries reviewed from the 13th to 18th sessions have reported to have included civil society in drafting the national report. However, very little information is usually provided on the details of such consultations, such as dates, location, participants, and content. Therefore, *UPR Info* encourages States to include the outcome of the consultations in their reports.



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Other best practices that *UPR Info* encourages States to take on board, include: reporting on voluntary pledges, including information dating only from the last four years and using annexes to provide a full picture of the level of implementation.

*UPR Info* looks forward to seeing States take these considerations on board while reporting within the framework of the UPR in the future and offers its support in that regard.

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