

Universal Periodic Review First cycle

Reporting methodologies from
the positions of the state,
civil society and national
human rights institutions



THE DANISH INSTITUTE
FOR HUMAN RIGHTS

**UNIVERSAL PERIODIC REVIEW
FIRST CYCLE**

**REPORTING METHODOLOGIES FROM
THE POSITION OF THE STATE,
CIVIL SOCIETY AND
NATIONAL HUMAN RIGHTS INSTITUTIONS**

DRAFT

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Acronyms and abbreviations

| | |
|---------------|--|
| CRPD | Convention on the Rights of Persons with Disabilities |
| DIHR | Danish Institute for Human Rights |
| ECOSOC | Economic and Social Council |
| HRC | Human Rights Council |
| ICAT | International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| ICCPR | International Covenant on Civil and Political Rights |
| ICEDAW | International Convention on the Elimination of All Forms of Discrimination Against Women |
| ICERD | International Convention on the Elimination of All Forms of Racial Discrimination |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| ICRC | International Convention on the Rights of the Child |
| ICRMW | International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families |
| NFP | National Focal Point |
| NHRI | National Human Rights Institution |
| OHCHR | Office of the United Nations High Commissioner for Human Rights |
| UNDP | United Nations Development Programme |
| UNIFEM | United Nations Development Fund for Women |
| UPR | Universal Periodic Review |

I. Introduction

Lisbeth Arne Nordager Thonbo

This publication is intended as inspiration for all actors involved in the Universal Periodic Review (UPR) process. We hope it will serve as an action oriented guide which is easily accessible and easy to use. In accordance with the process in Geneva, it is based on and mainly intended for the first cycle of the UPR process. However, it can also be applied in the coming cycles.

Although the process is still developing, some suggestions for best practices will be presented for consideration.

In order to highlight the special roles and functions of the main actors in the process, individual chapters are available aimed at the state, civil society actors and National Human Rights Institutions (NHRIs) respectively. The UPR is cyclic and the presented methodologies are described as steps in the cyclic process.

The publication builds on “*Universal Periodic Review – An Introduction*”¹ published earlier this year, which gives a description of the functioning of the UPR introducing the machinery and its main actors. It is therefore recommended to study this publication before embarking on the present one. In order to enable the three chapters to be read individually, some repetitions inevitably occur in the text mainly on factual issues.

The approach to UPR remains holistic and it is crucial to maintain the concept of the overall UPR cycle. However, the different actors involved need to focus their contributions in different ways, at different times and with varying emphasis. Their different mandates naturally give them varied roles and functions. This publication intends to provide advice and guidelines to facilitate the UPR process for all main actors, while in doing so also suggesting how best to streamline and coordinate the different contributions. At the same time factual knowledge and case stories are presented.

¹ *Spot On – Universal Periodic Review, An Introduction* by Anette Faye Jacobsen, DIHR 2010.

The overall aim of the publication is thus to ensure the universality of the UPR and that the different actors supplement rather than overlap each other, always keeping in mind the overriding goal of UPR - the improvement of human rights implementation on the ground. It is also the hope that the publication can inspire – as has been the case in its preparation – further cooperation and dialogue between the three main stakeholders to the benefit of the UPR process and its impact.

The authors of the three individual chapters have received valuable inspiration from a seminar held at the Danish Institute for Human Rights (DIHR) in Copenhagen on 15 to 17 September 2010². A list of the seminar participants and the seminar programme are enclosed as Annex 1 and 2. Comments and suggestions from the seminar participants have been included where relevant in the individual chapters.

However, some more general issues concerning the UPR process as such can be summarized as follows:

It was repeatedly stressed that the overall aim of the UPR process – actual implementation of human rights – must never be forgotten. The review process, the reporting, the dialogue, etc. are simply tools to this end. Recommendations should therefore be precise and practical, constructive and forward looking in order to be as useful as possible for improving implementation on the ground. In this connection it was also noted that the first round of UPR reviews is relatively “easy”, whereas the subsequent ones will be much more difficult as this is when the state has to document that implementation has actually improved.

Consequently, emphasis should be put on monitoring the follow-up on recommendations accepted and to this end the identification of indicators is crucial. All three parties to the process, but not least the NHRIs, have a role to play here. The independence of the NHRIs gives them a special credibility and responsibility in this respect as does their capability in terms of substance and necessary research to develop this area further.

It was also highlighted that the UPR process – being a universal process – is indeed strengthening the notion of universality of human rights. This happens not only through the process itself and the

² *The Universal Periodic Review: Reporting methodologies from the positions of state, NHRI and civil society*, the Danish Institute for Human Rights, Copenhagen, Denmark, 15 to 17 September 2010

peer review but very much through the awareness raising, information exchange and constructive dialogue which are indispensable for the smooth and productive conduct of the UPR process. The process has so far been characterized by openness and by respectful dialogue at national level. Such an open approach nurtures increased and more professional input to the process from all parties involved and brings them together in an open and non-confrontational manner where everybody participates for the same end: improving implementation of human rights. It was noted that although the national consultation is not mandatory it is actually being perceived and performed as such. This indicates an understanding as to the value of the open, constructive and facts-based dialogue as a tool for improving the implementation of human rights.

The peer review, involving all states at an equal footing, and the above described dialogue approach are unique to the UPR process and have already proven a constructive innovation in the efforts to improve the implementation of human rights. Experiences show that all states without exception in fact participate in the process.

A group of important stakeholders seem to have been forgotten in the UPR process, such as parliamentarians, the judiciary, the media, academics and think tanks etc. It was suggested to ensure the inclusion and involvement of these groups to reinforce the national commitment. The inclusion of indigenous and other minorities in the UPR process as well as ensuring that relevant information is made available in all major languages of the state in question was also pointed out as key to ensure genuine participation in the process.

The role and potential of active NHRI involvement in the UPR process was stressed repeatedly. The independence of those NHRIs accredited in accordance with the Paris Principles put them in a unique position as facilitator and link between the state and civil society and as professional human rights advisors for both the state and civil society. A number of NHRIs are also in a unique position to carry out useful research e.g. on human rights indicators and monitoring.

It was noted that some kind of mid-term review at national level or as a formal part of the UPR process in Geneva would be a useful mechanism to push even harder for improved implementation of human rights.

The seminar showed a broad consensus that the UPR process has so far been a positive experience, even surprisingly so. The value added of the UPR is no longer questioned and efforts now concentrate on improving the process. It seems that the UPR will grow in importance and impact over the years to come and become the key mechanism to ensure the universality and implementation of human rights. This was the perception of several participants to the first round of reviews. Still, the challenge remains to ensure that the UPR process and its modalities continue to be applied in an open and constructive manner to the benefit of implementation of human rights.

It was suggested that a check-list of best practices be developed for the entire UPR process. The Office of the United Nations High Commissioner for Human Rights (OHCHR) or DIHR were suggested as conveners of a conference with broad participation for this purpose.

II. The role of the state

Lisbeth Arne Nordager Thonbo

Until the establishment of the Human Rights Council (HRC) in 2006, monitoring of compliance with human rights obligations was limited to monitoring individual human rights conventions separately in accordance with the requirements stipulated in the respective conventions. The responsibility for documenting compliance with these conventions lies with the respective states having acceded to the convention in question. This responsibility of the state forms an integral part of the commitment of the state by acceding to the convention.

With the establishment of the HRC, the Council was also mandated to undertake the UPR, which thus constitutes both a new role for the HRC and a new mechanism for all UN members. Obviously, the UPR thus also constitutes a new obligation for the states.

The UPR mechanism differs considerably from treaty reporting – which only concerns those states having acceded to the treaty in question - by being based on the UN Charter and thus being universal and covering all UN members, and by the basis of the review being very broad:

1. *The basis of the review is:*
 - a) *The Charter of the United Nations;*
 - b) *The Universal Declaration of Human Right;*
 - c) *Human rights instruments³ to which the State is a party;*
 - d) *Voluntary pledges and commitments made by States, including those undertaken when presenting their candidates for election to the Human Rights Council (hereinafter “the Council”).*

2. *In addition to the above and given the complementary and mutually interrelated nature of international human rights law and international humanitarian law, the review shall take into account applicable international humanitarian law^{4,5}*

³ The main human rights instruments being: ICCPR, ICESCR, ICRC, ICERD, ICEDAW, ICAT, ICRMW, CRPD and their respective optional protocols.

⁴ E.g. the Geneva Conventions.

⁵ A/HRC/RES/5/1 Institution-building of the United Nations Human Rights Council

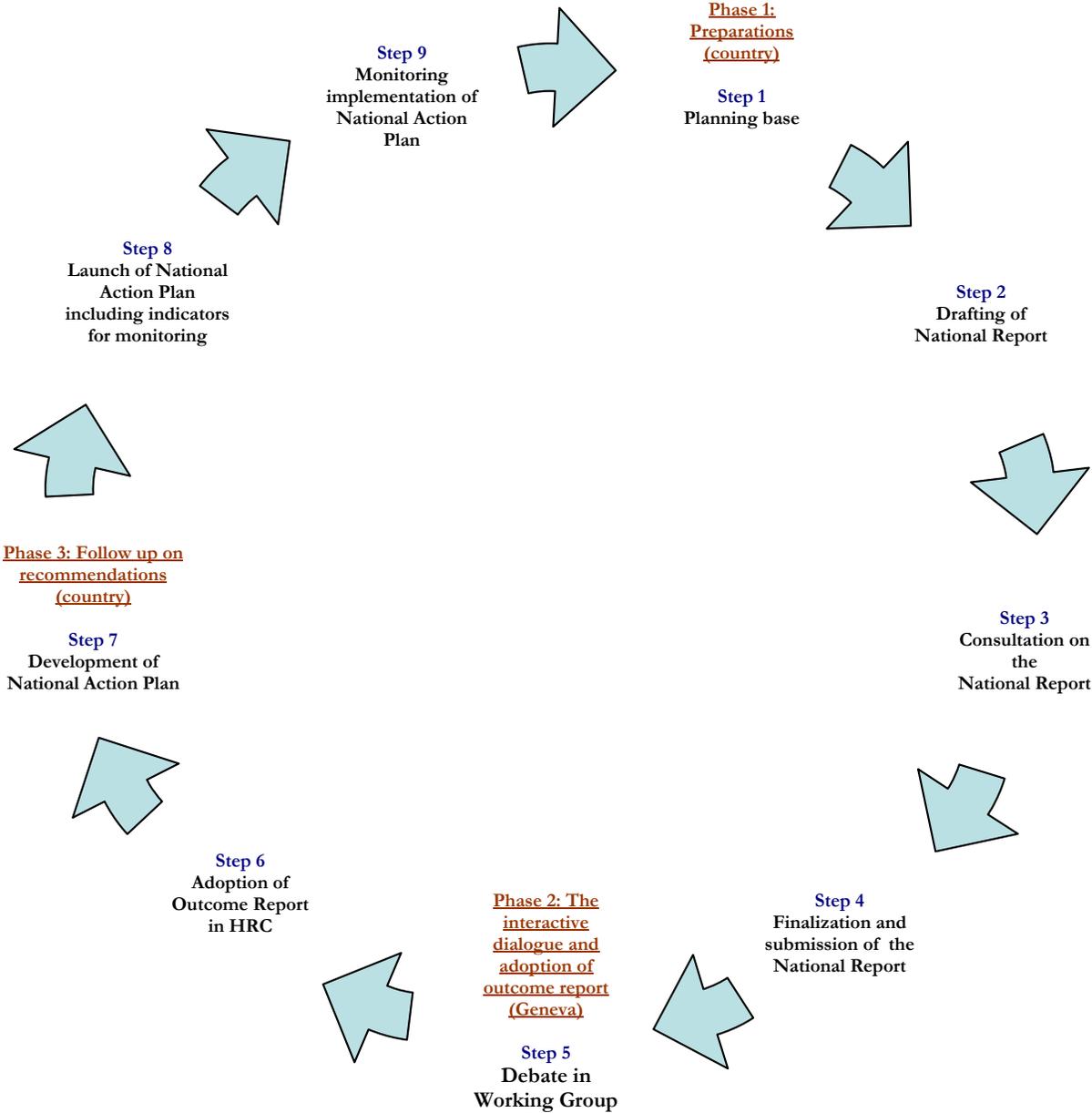
This approach reaffirms that human rights together with world peace are the core objectives of the United Nations while at the same time recalling the commitment of all UN member states' not only to specific human rights conventions but to the UN Charter itself as well as to the Universal Declaration of Human Rights – notwithstanding the not legally binding status of the latter.

Consequently, while the active participation of the entire society in the process is crucial for its value and usefulness, the main responsibility for and obligation to prepare the national UPR report lies solidly with the state.

The entire process is illustrated in the UPR wheel seen from the state perspective, first cycle (next page). Each step is then explained in further detail in the text which follows, including best practice, cases from reviews already undertaken etc.

A major obstacle to the successful development of the UPR process seems to be a lack of financial and human resources allocated as well as starting the process very late. Hopefully, experience from the first round of reviews will encourage states to consider the process as a continuous effort, i.e. not a task with a specific start and end date but as an element in ordinary, day-to-day efforts for improved implementation of human rights.

The UPR wheel seen from the state perspective, first cycle:



* The order of phase 2 and 3 depends on the approach of the state to the national consultation

Phase 1: Preparations (country)

Step 1: Planning base

The UPR mechanism is new and especially when a country is undergoing the first review there is a need for the state to decide on the structures and mandates necessary to perform its obligations in this respect.

It is recommended that the state appoints a National Focal Point (NFP) to ensure coordination and be responsible for fulfilling all formal and substantive requirements for the UPR. This NFP can be established in the Ministry of Foreign Affairs, Ministry for Human Rights or another suitable state institution. The NFP ensures the state focus and overview of the entire process. The NFP can also ensure the necessary connection between the state's UPR and Treaty Body reporting.

The first task of the NFP will include elaboration and presentation of a timetable for the process and identification of contact points for all relevant stakeholders (state, civil society and NHRI where such an institution exists).

The second task consists in information about the UPR to all relevant stakeholders and to the public at large. In order for the UPR to be universal and participatory there is a need to inform about the objective, formalities and content of the UPR, including how relevant stakeholders can participate in and contribute to the process. The general awareness raising should be broad in scope and the information about UPR ought to be general, educational, easy to understand and appealing in order to reach as many as possible in the general public.

The state can apply various instruments for awareness raising: a national UPR website, booklets, illustrated handouts, posters etc. The electronic media, TV, radio etc. could provide complementary ways to spread awareness about UPR. Information should include 1) what is UPR, 2) how the national consultation process will be carried out and 3) how it is possible to participate in the process. The information should be available in all main languages of the state and also take into consideration the needs of persons with disabilities. Ideally, the state can enter into cooperation with CIVIL SOCIETY and/or the NHRI to ensure a comprehensive information campaign on the UPR.

There may also be a need for public meetings and training could be arranged to provide more in-depth knowledge to specific target groups.

Since civil society and other stakeholders submit stakeholder reports six months before the review of the state in Geneva, information activities of the state should ideally begin 12-14 months before this takes place. However, in practice it will hardly be realistic to start this early and keep the attention of the recipients for such a long period.

The third task of the planning base should be to call for inputs to the process from relevant stakeholders. Such an early call will contribute to a fruitful national consultation process and confirm the commitment of the state to ensure a universal and participatory UPR process. Again, it is essential to apply all main languages of the state when calling for input. The state may find it appropriate that the NHRI assist in calling for inputs e.g. from independent stakeholders such as the judiciary.

In **Denmark** the Ministry of Foreign Affairs requested the DIHR to consult with a number of key, independent state institutions for input to the National Report. Due to their autonomous nature, it was decided that it would be more appropriate that the NHRI requested input to the UPR process from these entities rather than the government. Consequently, DIHR requested input from the following institutions:

1. the Courts of Denmark,
2. the Folketing (Danish Parliament), Landstinget (Parliament of Greenland), Lagtinget (Parliament of the Faroese Islands),
3. the Ombudsman, both in Denmark, Greenland and the Faroese Islands,
4. the Auditor General,
5. the Danish Bar and Law Association,
6. the National Council for Children,
7. the Council for Socially Marginalized People,
8. the Equal Opportunities Centre for Disabled Persons,
9. the Board of Equal Treatment and
10. the Danish Data Protection Agency.

The input received will be used in connection with the preparation of both the National Report and DIHR's stakeholder report. In order to supplement rather than overlap the National Report, DIHR's stakeholder report will focus on the Danish system for implementation and monitoring of human rights and DIHR's role in this respect, including follow-up on recommendations, rather than on specific human rights issues.

When calling for inputs it is very important that the different roles of various stakeholders are made clear. It must be stressed that the National Report is the responsibility of the state, while at the same time stressing the importance of input from other stakeholders who must realize that they can only encourage and inspire the content of the state report. Any views that can not be aligned with those of the state must be presented in the relevant stakeholder reports. Such attuning of expectations is crucial in order to avoid disappointment and misunderstandings where stakeholders may feel that they are not being taken seriously.

It is key to the success of the first step – as well as to all the following steps – that the state takes on an open approach and invites for genuine participation from all relevant stakeholders. This will assist the state in fulfilling its obligations and ensure a constructive process which can yield substantive and sustainable improvement of the implementation of human rights.

Step 2: Drafting of National Report

As already mentioned, the review takes point of departure in 1) the UN Charter, 2) the Universal Declaration of Human Rights, 3) the human rights instruments which the country is party to and voluntary pledges and commitments made by states, including those undertaken when presenting their candidates for election to the HRC, as well as applicable international humanitarian law.

The format and structure of National Reports can follow the General Guidelines adopted by the HRC which are also applied for stakeholder reports and UN information reports⁶. These guidelines are in fact very general and not mandatory. Information about the following seven main points can be included:

1. The *broad consultation process followed nationally* for the preparation provided to the UPR by the country under review;
2. The current *normative and institutional human rights framework of the country*: constitution, legislation, policy measures such as national action plans, national jurisprudence, human rights infrastructure including NHRIs;
3. The *implementation of the normative and institutional human rights framework* as described above in point 2;
4. *Cooperation of the country under review with human rights mechanisms* including NHRIs, non-governmental organizations (NGOs), rights holders, human rights defenders, and other relevant national human rights stakeholders;

⁶ "Information and Guidelines for Relevant Stakeholders on the UPR Mechanism [as of July 2008]" OHCHR

5. *Achievements and best practices* made by the country under review and *challenges and constraints* faced by the country under review;
6. *Key national priorities* as identified by stakeholders, initiatives and commitments that the state concerned should undertake, in the view of stakeholders, UN treaty bodies etc. to improve the human rights situations on the ground.
7. Expectations in terms of *capacity-building and technical assistance* provided and/or recommended by stakeholders through bilateral, regional and international cooperation.

The OHCHR guidelines allow for additional documentation to be annexed for reference.

The National Report can thus be structured covering these seven points. However, the state may still wish to consider whether to present a general report only or whether to add information on specific issues which the state wishes to highlight.

The National Report has to be submitted by the latest 6 to 13 weeks before the UPR review of the state takes place. In order to allow for a comprehensive consultation process, the process should thus be initiated 10 to 12 months before the review of the state.

In **Norway** a meeting was held with the participation of relevant ministries to decide on the main issues and the tone of the report as well as the aim of conducting a self-critical and open process. This approach ensures a much more consistent and coherent report and puts the state ahead of any criticism by being open about the critical issues. Norway also decided that there should be only “one pen” to ensure a coherent, assessable text and collaborative tone.

Step 3: Consultation on the National Report

According to the guidelines mentioned, states should prepare the information they submit in the National Report “through a broad consultation process at the national level with all relevant stakeholders”.

The national consultation can be described as the materialization of the state’s policies on both human rights and the rule of law, as the consultation requires participation, access to information, openness, transparency etc. which make up key elements of human rights and rule of law. Already when holding the national consultation, the state in question can demonstrate its commitment to the

implementation of human rights. This is also reflected in the requirement to the National Report that it includes information about the broad consultation process followed nationally.

This process constitutes a golden opportunity for the state to obtain information – factual as well as concerning the current trends, debates and issues concerning human rights among the population – and should consequently be considered a present rather than a burden to the state. The specialist knowledge of CIVIL SOCIETY organizations can be very useful to the state and such information can be obtained through an open and participatory national consultation. At the same time, a successful process also requires serious information efforts from the state in order to put all stakeholders in a position allowing them to participate in a meaningful manner.

There is no further advice on how this can be carried out and during the first UPR cycle the initial ways to carry out national consultation processes have therefore also varied greatly. In some cases states have initiated countrywide meetings, made use of media to disseminate information about the mechanism and for broad discussions of the contents of the National Report, opened UPR web-sites for stakeholder comments etc. In some instances stakeholders were consulted at an early stage and re-consulted after the fully developed draft or re-drafts of the National Report were made available. In other countries two workshops in the capital constituted the national consultations. In general, there is still room for improvement in this process, while at the same time there is also a wealth of inspiration from some good practices. At the same time, experience so far suggests that the national consultation process is of the greatest importance to the overall success of the UPR process.

The main purpose of the national consultation process is for the stakeholders to influence and provide inputs to the National Report so that it reflects 1) a real and comprehensive picture of the actual human rights situation in the country, 2) the efforts made by the state to progressively improve it and 3) that the proposed recommendations to improve the situation are important, relevant and substantial.

Consequently, the state should take this into considerations both when formulating the National Report and during the national consultations. By doing so, the state will be able to address any issues at an early stage of the process, thus avoiding any undue criticism. This should also be among the objectives for the state during the national consultation.

At this stage, the state should offer comprehensive information about the UPR and the purpose of the national consultation. This information builds on the information offered at the planning stage complemented with specific information about the national consultation, including the specific modalities (who can take part, how to participate and give inputs, when, where, etc.).

There are 3 options on how to structure the national consultation: 1) the state can present a draft of the National Report and let this be the basis of the consultation, 2) the state can invite for a more open consultation without presenting a draft National Report or 3) the two approaches can be combined in a two-phase process. However, if the state has decided to focus on a specific issue in its report, it may be appropriate to announce this in connection with the invitation for the consultation and to present relevant background material. Both draft(s) and the final National Report should be available in the main languages of the state.

After the first UPR process of the state, the recommendations adopted at earlier UPRs should constitute a core element in the national consultation: how has the state followed up on the adopted recommendations, what are the lessons learned, etc.

The approach of the state to the national consultation is crucial for a constructive process and outcome. The earlier the state starts information about the UPR and specifically the national consultation, and the more open the state is to input from and participation from stakeholders, the more information will be available to the state. This will enable the state to make possible improvements to the National Report and to avoid undue criticism.

The state can choose to cooperate with the NHRI e.g. in order to present the necessary facts thus ensuring that the national consultation takes place at an informed level. The NHRI can be extremely useful to the state both as a source for independent, expert knowledge on human rights and as an “honest broker” acting as link and facilitator between the state and relevant stakeholders.

In **Denmark** the Ministry for Foreign Affairs as NFP for the UPR process and DIHR co-hosted two public hearings in Denmark. DIHR also acted as coach in preparing the planning base for the UPR process in Denmark.

Tonga went through a national consultation process which has been praised widely: The consultations took place with capacity constraints but briefings and preparatory work were undertaken with government ministries and agencies, including the Tonga Police, the Tonga Defence Service as well as with most of the 49 civil society organizations that are members of the Civil Society Forum of Tonga. The Tongan Government also took into account a report by the only single Tongan civil society organization contributing to this UPR. The Tonga Church Leaders Forum was also consulted. Discussions were held with the Chief Justice, the Minister for Justice and Attorney General, the Solicitor-General and the Tongan Law Society. In addition, the Tonga Chamber of Commerce was consulted as was the Tonga Media Council. By the end of the consultation process the civil society as a whole publicly approved the National Report.

Step 4: Finalization and submission of the National Report

The state should to the degree possible take into consideration the results of the national consultation when finalizing the National Report.

The National Report must be submitted to the OHCHR no later than 6 to 13 weeks before the review in question. As the deadline for submission of stakeholder reports is much earlier (six months in advance of the review in question), the state should consider also to publish drafts of the National Report during the drafting process as input to the public debate on human rights and to the benefit of other stakeholders' preparations for the review in Geneva.

For transparency and general information purposes, as well as in order to enable other stakeholders to prepare for the review in Geneva, the final National Report should be publicly available as early as possible and in all major languages of the state in question. Obviously, the National Report also serves as the point of departure for the next UPR review and should therefore be available to allow monitoring and follow-up by all stakeholders.

Phase 2: The interactive dialogue and adoption of outcome report (Geneva)

Step 5: Debate in Working Group

The review of the state in Geneva will be conducted by the members of the Working Group under the HRC supplemented by observer states. Prior to the review it is possible for members of the Working Group or other member states to prepare written questions and their oral questions,

comments and recommendations for the interactive dialogue which forms the first step of the review of the country in Geneva.

Some states prepare questions and recommendations for upcoming UPR review of other states up till six months prior to the review in order to have these approved at the political level but this does not always happen. Whether to do so is of course a political decision by the state. At this point, the state also needs to consider how to ensure speaking time and how best to use it, including whether to make an individual national statement or whether to participate in joint statements.

The webcasted interactive dialogue holds excellent potential for awareness raising, information and openness, and the state can choose to use this opportunity to present directly to its citizens how it performs in terms of human rights implementation. This can happen by transmission in national TV. The state's action to follow up on adopted recommendations should have a prominent role also in this connection.

However, some countries have experienced technical problems which have prevented them from benefiting from the webcast, which obviously requires both a stable power supply and access to the Internet. To this should be added the need for interpretation in to relevant languages in order to make the information as widely accessible as possible.

The composition of the delegation going to Geneva should be considered carefully both in terms of hierarchy – the more prominent the head of delegation the more prominence the state gives to the UPR process – and in terms of substance/specialist input. It can e.g. be very useful that national or other minorities are represented in the delegation.

Burkina Faso decided to engage an external person to assist with the presentation of the report and found this very useful e.g. in terms of accommodating the needs and priorities of the HRC

Step 6: Adoption of Outcome Report in HRC

The interactive dialogue in the Working Group results in a working group report (30 pages) summarizing the review process including questions raised, discussion points, recommendations by the Working Group and observer states as well as the presentations, comments and views expressed

by the reviewed state delegation. A separate part of the report lists the entire set of recommendations which the state under review will consider for adoption, further considerations or rejection. In some cases the concerned state makes immediate voluntary commitments.

The HRC will in an upcoming plenary session adopt an outcome report including a summary of the actual discussion. It therefore consists of the questions, comments and recommendations made by States to the country under review, as well as the responses by the reviewed State.

Before this, a plenary discussion is allocated for each of the reviewed states. The one hour discussion is divided evenly between the reviewed state (20 minutes), members of the council and observer states (20 minutes) and stakeholders (20 minutes). After this the plenary will adopt the outcome report.

The adoption of the outcome report is the direct follow up to the interactive dialogue and it usually takes place at the next regular session of the HRC. This usually takes place between 4 to 6 months after the interactive dialogue.

These sessions are also webcasted and can be used by the state as suggested above.

Phase 3: Follow up on recommendations (country)

Step 7: Development of National Action Plan

The UPR mechanism is divided with a four year span between the reviews of the states. The preparation and review process is time consuming and leaves approximately 3 years for the newly reviewed state to implement the adopted UPR recommendations. In order to give room for a continued national dialogue on human rights, the adopted recommendations and the state's reaction should be widely disseminated. This will also ensure independent monitoring of the state's fulfilment of its obligations. At the same time the adopted recommendations can constitute the core elements of a National Human Rights Action Plan. The elaboration of such a national plan should also include broad national consultation and dialogue to ensure ownership, commitment and independent monitoring.

Once the outcome report is adopted by the HRC, the state can start the planning and carrying out the implementation of the UPR recommendations. This implementation lasts until the next UPR review. In this process, it can be helpful to cluster the adopted recommendations according to substance, order of priority etc. and a time schedule for the planned implementation will assist monitoring of improvements.

In order to streamline the process of implementation, the state may choose to prepare a comprehensive national action plan and/or a strategy, policy papers, reform programmes etc. based on the UPR recommendations. Some countries have established an inter-ministerial committee to be responsible for the follow-up. This process can be assisted by a follow up, mini national consultation by which the state can involve national stakeholders in the implementation.

Facts based dialogue could be an excellent approach to apply during this process to encourage broad hearings taking point of departure in ongoing and relevant human rights documentation⁷. In order to monitor the implementation, indicators need to be defined in order to be able to measure progress.

The UN system and possibly development partners can also assist in the implementation of UPR recommendations with technical and/or financial assistance. The NHRI can also play an important role in monitoring the state's follow-up, assist in developing indicators etc.

As example of best practices, **Bahrain** has developed National Plans of Action which include UPR recommendations. Bahrain has also set up a steering committee to monitor the implementation which includes members of the government, the NHRI and NGOs. Another best practice is to provide an update to the HRC. Countries such as **Bahrain, Colombia, the Czech Republic, the Republic of Korea, Romania, Switzerland, the United Arab Emirates** and the **United Kingdom** have already provided information. In **Switzerland** and **Canada**, civil society is involved in the follow up process through regular meetings and consultations with the government.

⁷ DIHR has developed a methodology, facts-based dialogue, which takes point of departure in the concerned country's international human rights obligations and documented human rights concerns which are presented and debated in broad national hearings. The hearings result in recommendations which provide the directions for the further process of systematically address and improve the relevant legislation and/or implementation.

Norway is still in the process of developing implementation plans for the recommendations accepted; however, a matrix has been prepared where all recommendations as well as the ministries responsible for follow-up are listed. The matrix is published and can thus be used by all interested parties in monitoring follow-up.

Step 8: Launch of National Action Plan including indicators for monitoring

In cases of states positively committed to the implementation of the UPR recommendations, the state should invite for a broad dialogue on the contents, time schedule and other modalities of such a national plan. The NHRI would be a natural and very useful partner to the state in these endeavours. At the same time, NGO networks and platforms can also seek to enter cooperation with the relevant state institutions with the purpose of offering their coordinated inputs and contributions and possible monitoring of the progress.

Step 9: Monitoring implementation of National Action Plan

In some countries a part of the implementation of the UPR recommendations will involve formulation of indicators and continuous measuring of progress in this process. In other cases this will not be a part of the state initiative and the NGOs, networks, NHRI etc. could remind, encourage and assist the state in the development and use of indicators. Indicators can be seen as a transparent tool measuring the degree of implementation⁸.

It was noted that there is a great need for further research into and development of human rights indicators, a task that could be taken up by NHRIs.

⁸ *Human Rights Indicators at Programme and Project Level*. 2006. DIHR. Erik André Andersen & Hans-Otto Sano.

III. The role of Civil Society

Lis Dhundale

“The UPR process ensures the participation of all relevant stakeholders, including NGOs and NHRIs. NGOs and NHRIs can submit information which can be added to the “other stakeholders” report which is considered during the review. Information they provide can be referred to by any of the states taking part in the interactive discussion during the review at the Working Group meeting. NGOs can attend the UPR Working Group sessions and can make statements at the regular session of the HRC when the outcome of the state reviews is considered” such is the stakeholder involvement presented at the website of OHCHR.

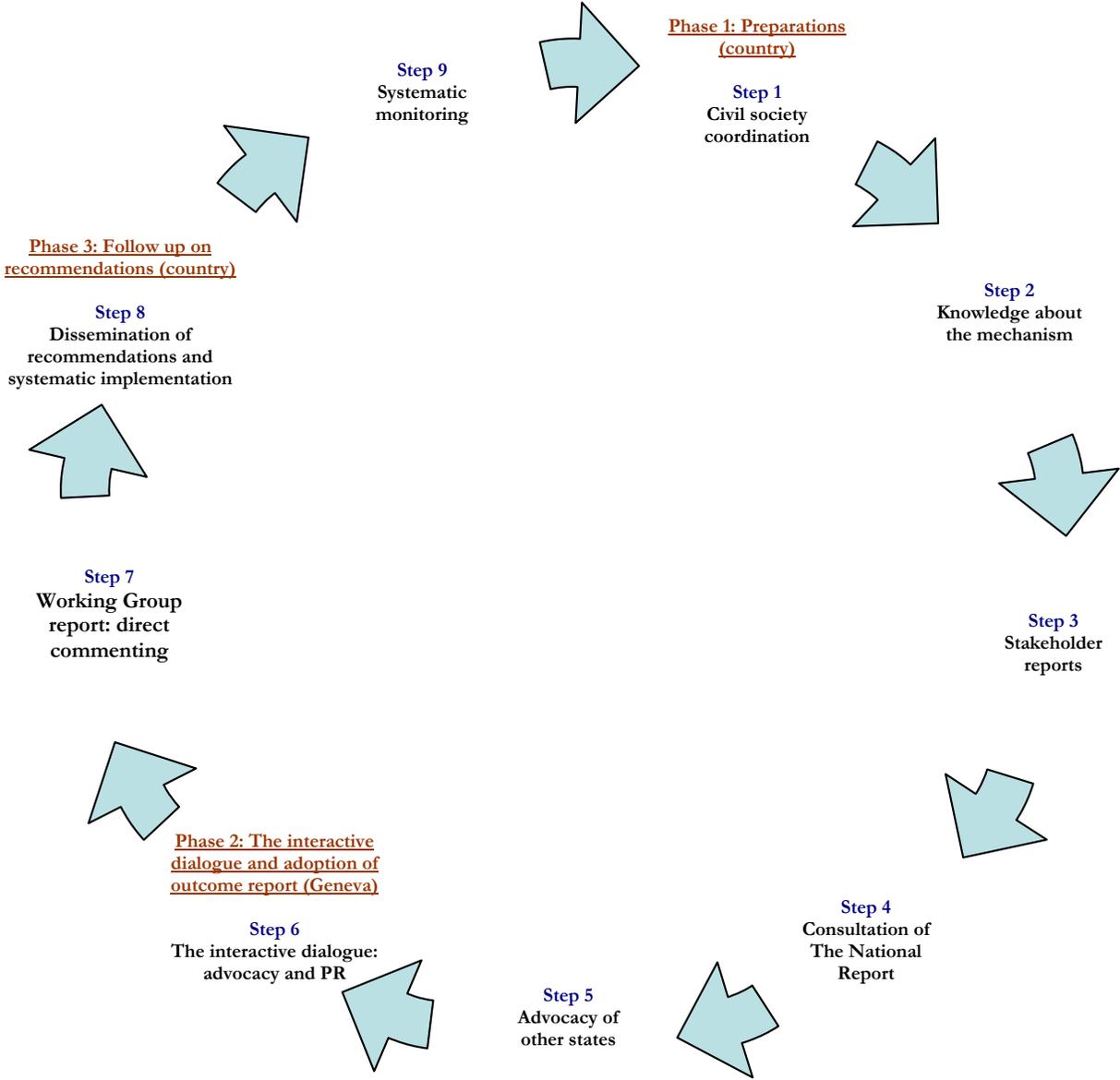
In addition to the important submission of independent information and the unique participation in the review there are a number of other ways for stakeholders to influence the UPR cycle which include the just as important prelude and postlude which take place outside the UN setting and at the national level.

Stakeholders - and in this case the civil society organizations in the concerned country - are also encouraged to ensure that they are included in the broad consultation process at the national level organized by the state with the purpose of partaking in the preparation of the information to be submitted to the UPR by the state. Finally, the outcome of the UPR is described as a cooperative mechanism which primarily should be implemented by the state and when appropriate by other relevant stakeholders. At country level the civil society has important contributions to make in raising knowledge and awareness of the UPR mechanism as a way for people to participate in the hearings, to provide their own comments to the National Report, to ensure that the consultations are genuine, to flag their independent stakeholder reports etc. After the active participation in the UPR review in Geneva the civil society has new roles waiting when returning home: to raise public awareness about the adopted and rejected recommendations, to encourage the state to prepare a systematic and comprehensive implementation of the UPR recommendations, to monitor the progress of the implementation etc.

The importance of civil society engagement in the UPR cycle is evident. Independent perspectives and voices are needed from start to ending to provide a needed balance to the state's performance. The engagement can be in cooperation with the NHRI and the state but it can also take form as independent initiatives. The non-governmental nature of the civil society makes it a legitimate representative for the right holders and it ought to have a natural role to play when the human rights situation is reviewed in a country. Finally, the civil society can act as a vehicle for the marginalized and vulnerable groups to have their voice heard. The objective of the review is to improve the human rights situation on the ground. This implies that everyone without distinction is entitled to the rights and freedoms and in order to take weighty steps in this direction the participation of civil society is indispensable.

The following page shows the UPR wheel seen from the civil society's perspective perspective, first cycle. Each step is then explained in further detail in the text which follows, including best practice, cases from reviews already undertaken etc.

The UPR wheel seen from the civil society’s perspective, first cycle:



Phase 1: Preparations (country)

Step 1: Civil society coordination

In order for the civil society, the NHRI and others to engage actively in the UPR process a joint approach can be an excellent starting point and if successful it should be continued through the entire UPR cycle and include all steps.

In cases of states positively committed to the implementation of the UPR recommendations, civil society networks and platforms can seek to enter cooperation with the relevant state institutions with the purpose of suggesting how the preparation and hearing process can be carried out and once the review of the state is conducted in Geneva the networks or platforms can suggest their role in the follow-up of the adopted recommendations, the monitoring of progress etc.

In countries where reluctant governments rule either existing or new civil society platforms or networks can be formed with the purpose of approaching the state more forcefully in order to formulate their ideas of how the consultation process can be done or make suggestions to the follow-up on some or all of the adopted UPR recommendations. Experiences have shown that in some cases vocal stakeholders in the UPR process have subsequently been threatened or otherwise harassed.

In such types of countries, individuals or bodies who have in other connections been willing to cooperate with NGOs and who are receptive to human rights can be approached in an informal manner for advice or possible involvement. The platform or network can analyze the situation and accordingly formulate a strategy designed to pressure the state to take action.

Regardless of the situation in the country, the outset ought to be that the stakeholders including the civil society are involved in as many steps as possible of the UPR cycle. The network or platform will have to formulate a joint strategy that will seek to reach this goal to the largest possible degree.

While there are many good examples showing excellent civil society coordination in preparing joint stakeholder submissions there are yet only few known examples of coordinated monitoring efforts having to do with follow up and implementation of UPR recommendations. Such initiatives might

exist but might not yet be documented. In guidelines, tool kits, studies etc. of the UPR process most attention has yet been concentrated on preparation of the stakeholder submissions and the possibilities related to the UPR review in Geneva.

Step 2: Knowledge about the mechanism

The UPR mechanism is new and especially when a country is undergoing the first review there is a need for the civil society organizations to gather knowledge about it just as there is a need for the general public to become aware of what is UPR and the consultation process which the country will go through. The broad awareness raising initiatives can be carried out by human rights organizations and activists or others in the civil society and complement similar efforts by the NHRI and state.

Since civil society and other stakeholders in general have to submit stakeholder reports six months before the review of the state in Geneva, the information activities should ideally begin 12-14 months before this takes place.

There are no fixed guidelines for doing information activities. Ideally, civil society, the NHRI and state could initiate informative activities jointly or complementary in order to provide particular interested groups and individuals as well as the general public with information in the native language. This should be about 1) what UPR is, 2) how the national consultation process will be carried out and 3) how it is possible to participate in the process.

The information targeting specific groups and individuals who will become active in the national consultation process, and especially those wishing to prepare stakeholder submissions, should clarify what the UPR procedures, deadlines and formats are. The information can be prepared for example as toolkits or as short texts with graphics illustrating the UPR steps. These could be distributed by mail or post, communicated through websites, etc. Meetings and training could be arranged to provide more in-depth knowledge to the target groups.

Since UPR is a new human rights mechanism there is a special need to inform the general public about it. If a participatory hearing process is to be successful it requires that there is a broad knowledge about UPR. The general awareness raising should be broad in scope and the information about UPR ought to be general, educational, easy to understand and appealing in order to reach as

many as possible in the general public. Ideally, booklets, illustrated handouts, posters etc. could be prepared and distributed widely for free at accessible places, websites etc. The electronic media, TV, radio etc. could provide complementary ways to spread awareness about UPR.

Step 3: Stakeholder reports

Who and how much?

In the suggested guidelines for relevant stakeholders for UPR reporting prepared by the OHCHR⁹ stakeholders are defined as NGOs, NHRIs, human rights defenders, academic and research institutions, regional organizations and civil society organizations. This group is encouraged to either submit their own independent individual report (5 pages) or joint reports (10 pages) to the review.

All of the received stakeholder submissions are merged by OHCHR into one compiled stakeholder report (10 pages). This is made available and considered during the review along with the National Report (20 pages) and the “UN compilation” including information provided by UN special procedures, treaty bodies and UN agencies such as UNIFEM, UNDP etc. (10 pages).

What should be in the report?

The review take point of departure in 1) the UN Charter, 2) the Universal Declaration for Human Rights and 3) the human rights instruments which the country is party to and voluntary pledges and commitments made by states including those undertaken when presenting their candidates for election to the HRC, as well as applicable international humanitarian law.

The format and structure of reports submitted by stakeholders can follow the General Guidelines adopted by the HRC which can also be applied for National Reports and UN information reports¹⁰. These guidelines are in fact very general and are only suggestive. Information about the following seven main points can be included:

⁹ Suggested guidelines for “Relevant stakeholders” wishing to provide information to the Universal Periodic Review. Suggested guidelines for NGOs – as at July 2008. Office of the High Commissioner for Human Rights, Civil Society Unit.

¹⁰ General Guidelines for the Preparation of Information under the Universal Periodic Review. Decision 6/102, Human Rights Council. 20th meeting on 27 September 2007. Follow-up to the Human Rights Council resolution 5/1.

1. The *broad consultation process followed nationally* for the preparation provided to the UPR by the country under review;
2. The current *normative and institutional human rights framework of the country*: constitution, legislation, policy measures such as national action plans, national jurisprudence, human rights infrastructure including NHRIs;
3. The *implementation of the normative and institutional human rights framework* as described above in point 2;
4. *Cooperation of the country under review with human rights mechanisms* including NHRIs, NGOs, rights holders, human rights defenders, and other relevant national human rights stakeholders;
5. *Achievements and best practices* made by the country under review and *challenges and constraints* faced by the country under review;
6. *Key national priorities* as identified by stakeholders, initiatives and commitments that the State concerned should undertake, in the view of stakeholders, UN treaty bodies etc. to improve the human rights situations on the ground.
7. Expectations in terms of *capacity-building and technical assistance* provided and/or recommended by stakeholders through bilateral, regional and international cooperation

The stakeholder guidelines prepared by OHCHR require that the reporting is specifically tailored for the UPR and 1) contain credible and reliable information on the state under review; 2) highlight the main issues of concern and identify possible recommendations and/or best practices, 3) cover a maximum four-year time period and 4) do not contain abusive language. Those requirements formulated in the OHCHR guidelines are, however, mandatory and it may lead to rejection of the submission if they are not followed.

In reality, stakeholders can often draw on their existing human rights documentation when engaging in the stakeholder reporting. Their earlier submitted shadow reporting to the UN treaty bodies can also be applied in this connection although it has to be adjusted to the requirements. The stakeholder report prepared especially for UPR can be a combination of adjusted summaries of existing data, findings, conclusions and recommendations and new added text. The OHCHR guidelines allow that additional documentation can be annexed for reference.

When?

The deadline for submitting stakeholder reports during the first UPR cycle is most often six months before the state is scheduled to be reviewed in Geneva¹¹. In general the state needs to submit the National Report between six to thirteen weeks before the review. On the OHCHR's website the exact deadlines are published well in advance.

Consequently the stakeholders are often engaged in the preparation of the reporting before the state. The stakeholders are likely to start their preparations at least 12 months before the review, especially in cases where several stakeholders decide to prepare a joint submission.

Alone, together – or both?

Experiences have shown that the joint stakeholder submissions are encouraged and appreciated. It carries more weight when participating stakeholders succeed in reaching consensus about the human rights situation and recommendations to improve it in the concerned country. Organizations and others wanting to jointly prepare a report are especially in need of an early start to coordinate their report writing well.

In the first cycle of the UPR review the stakeholder submissions have varied considerably. In some countries stakeholders have only submitted individual reports while in others one or several joint submissions have supplemented the individual reports. In some instances individual stakeholders have participated in joint submission and prepared their own individual submissions. The total amount of stakeholder submissions for a concerned country varied from few to several dozens. In some cases like minded stakeholders or networks made joint reporting on a specific human rights theme e.g. children's rights, the media, the rights of sexual minorities while others have aimed at a holistic coverage of human rights in the country.

Since the stakeholder reports are generally submitted 6 months prior to the review of the state the preparations of the stakeholder reports – joint or individual submission – it is advised to start work at least 12 months before the review in Geneva.

¹¹ In the subsequent periodic cycles the deadline for submissions of stakeholder reports will be five months before the review of the country is scheduled.

Kenya can serve as an inspiring example of how the civil society and the NHRI can engage in stakeholder submissions to UPR. Kenya National Commission on Human Rights took the initial initiative to facilitate the civil society organizations in preparing a joint submission. This initiative resulted in comprehensive cooperation developing into the Kenya Stakeholders' Coalition comprising 97 national and international organizations and institutions working on human rights and development concerns. To facilitate the preparation of the joint report, a steering committee was established and the stakeholders were sub-divided into various thematic clusters including women, children, youth, older persons, persons with disabilities, minorities and indigenous communities, sexual minorities, civil and political rights, and economic, social and cultural rights. An initial series of cluster meetings revealed the need for capacity building on the UPR. Subsequently a workshop was carried out facilitated by experts. The information gathered by each cluster on areas of critical human rights concern was compiled and consolidated into the Kenya Stakeholders' Coalition for the UPR Report. In addition to this, four other joint submissions were prepared by groups of other NGOs covering one specific or several human rights topics while 14 individual organizations prepared their own stakeholder submissions.

Step 4: Consultation of the National Report

States are encouraged to prepare the information they submit in the National Report “through a broad consultation process at the national level with all relevant stakeholders”. There is no further advice on how this can be carried out and during the first UPR cycle the initial ways to carry out national consultation processes have therefore also varied greatly. In some cases, states have initiated countrywide meetings, made use of media to disseminate information about the mechanism and initiated broad discussions of the contents of the National Report, opened UPR web-sites for stakeholder comments etc. In some instances, stakeholders were consulted at an early stage and re-consulted after the fully developed draft or re-drafts of the National Report were made available. In other countries two workshops in the capital constituted the national consultations. In general, there is a perception that this process can be improved significantly with respect to timing and the shape of the consultations including the inclusiveness and participation of the consultations as well as during the follow up and implementations steps.

The National Report has to be submitted by between six to thirteen weeks before the UPR review of the state takes place. In order to allow for a comprehensive hearing process the activities should start 10-12 months before the review of the state.

The civil society organizations, other independent human rights actors and the NHRI can at an early stage try to influence the consultation process especially if it is expected that only symbolic

consultations will be held. After identifying which government agency will be responsible for the UPR National Reporting, the stakeholders can make inquiries of how and when the state plans to carry out the consultations. Along these lines the organizations, activists etc. can propose ways to make the process optimal and suggest how they would like their own involvement to be. The consultations can take form of constructive dialogues with the state. In such cases, the attitude and tone of the dialogue have to build on openness and respectful exchange of views.

In the consultation process some stakeholders have often been left out. This includes parliamentarians, political parties, the judiciary, think tanks, academics etc. It is advisable to ensure their involvement since their roles and engagements are also of importance to the process.

The main purpose of the national hearing process is for the stakeholders to influence and provide inputs to the National Report so that it reflects 1) a real and comprehensive picture of the actual human rights situation in the country, 2) the efforts made by the state to progressively improve it and 3) that the proposed recommendations to improve the situation are important, relevant and substantial.

In countries where civil society is unable to take on this active role it is important the civil society draw attention to the insufficient national consultations as well as left out issues, concerns and inadequate recommendations in the National Report.

Finally, regardless of the quality and extend of the national consultation process the stakeholders have an important role in disseminating information about the review of the country in the HRC in Geneva and particularly the recommendations supported by the state in order to raise the public knowledge and expectations of the state's future commitments to human rights.

Tonga went through a national consultation process which has been praised widely: The consultations took place with capacity constraints but briefings and preparatory work were undertaken with government ministries and agencies, including the Tonga Police, the Tonga Defense Service as well as with most of the 49 civil society organizations that are members of the Civil Society Forum of Tonga. The Tongan Government also took into account a report by the only single Tongan civil society organization contributing to this UPR. The Tonga Church Leaders Forum was also consulted. Discussions were held with the Chief Justice, the Minister for Justice and Attorney General, the Solicitor-General and the Tongan Law Society. In addition the Tonga Chamber of Commerce was consulted as was the Tonga Media Council. By the end of the consultation process the civil society as a whole publicly approved the National Report. It should be noted that the case of Tonga is exceptional due to the small size of the population.

Step 5: Advocacy of other states

The review of the state in Geneva will be conducted by the members of the Working Group under the HRC supplemented by observer states. Prior to the review it is possible for members of the Working Group or other member states to prepare written questions and their oral questions, comments and recommendations for the interactive dialogue which forms the first step of the review of the country.

It varies considerably how far in advance each state prepares themselves for the review of other states. It might be worth while to share experiences with other organizations or NHRIs to assess when the right time is to approach specific states to discuss questions and recommendations. Larger states tend to start the process earlier since their procedures require the approval of the government in advance. Smaller states might be possible to approach on a shorter notice since their procedures might be more direct and rely on their UN representation in Geneva. Another factor is the priority of the countries under review. Not all states prepare questions and recommendations for all of the 16 countries which are reviewed in each Working Group session. It is quite a challenge to identify which states are willing and perceptive to engage in each of the 16 states under review. Finally, some states have identified human rights priorities and are only willing to raise questions and recommendations within those.

The national stakeholders but also regional and international organizations can contact other countries either through their UN representations in Geneva or their embassies or diplomatic representations in the country to be reviewed. Often the UN country representations will consult with their embassies in the countries coming under review and it is therefore advisable always to communicate directly with them. The national stakeholders can propose central human rights questions and concerns to be raised by other countries. However, it is just as important to add concrete information and recommendations pointing towards suggested ways to improve the raised areas of concern.

Experiences show that states such as **Brazil, Guatemala, Mexico, The Republic of Korea and some in the Western group** have been receptive to being approached by NGOs even just before or during the review of a state. Statistics indicate that at least during the first UPR sessions in 2008 it was also these countries that most frequently raised questions and recommendations. The statistics from UPR reviews in 2008 also reveal that human rights issues raised in the NGO

stakeholder submissions are sometimes also raised among many issues by other states during the interactive dialogue but to varied degrees. As examples the stakeholder submissions raised eight human rights main concerns in the review of Morocco while four of these were raised by other states and eventually adopted by the Moroccan delegation. In the review of Ecuador three human rights main concerns were raised by other states which were to be found in the stakeholder submissions which in total flagged nine topics. These three concerns led to recommendations adopted by Ecuador. Poland did not accept but will consider five recommendations proposed by other states which are also to be found in the stakeholder submissions. The stakeholder submissions in total brought up 9 human rights concerns. It is not known to which degree the NGOs in these three cases advocated other states to raise issues from their reporting.

Phase 2: The interactive dialogue and adoption of outcome report (Geneva)

Step 6: The interactive dialogue: advocacy and PR

The interactive dialogue takes place during a session of the UPR Working Group under the HRC in Geneva. During this, the national stakeholders can make use of the attention of the interactive dialogue in several ways. Organizations with ECOSOC status can attend the sessions but they are not allowed speaking time. The three hour interactive dialogue is made available live and archived on webcast by OHCHR and transmitted in the official language of the country and in English.

The specific dates set for states to be reviewed in the Working Group under the HRC in Geneva can be found on the OHCHR's website.

The presence of stakeholders during the review of the state is important. If national organizations, activists or others do not have the required ECOSOC status they might contact Geneva based organizations with ECOSOC status to apply for enrollment on their behalf. Further information about how stakeholders can obtain ECOSOC accreditation, how to make reservations for side events etc. can be found on the OHCHR's website¹².

Once present, the national stakeholders can attend the interactive dialogue as observers. They can also prepare side-events, media briefings etc. at the UN premises with the purpose of drawing broad

¹² The relevant OHCHR web-site link is: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NgosNhris.aspx>

and public attention to the review. It is important that the media from the country under review is also present to cover such events.

National stakeholders can make last minute lobby meetings in Geneva with representatives from other states. However, at this late stage it is likely that most other state representatives have already formulated and had their written and oral contributions approved and might therefore not be receptive to new inputs.

The webcasted interactive dialogue holds excellent advocacy and PR potentials. Especially stakeholders staying behind can make use of this and draw attention to the review by organizing live round table debates with state and civil society representatives to be transmitted through TV, large scale civil society meetings, live media events etc. in the country under review.

The webcast of the interactive dialogue is as mentioned a unique feature of UPR and it can help bring transparency and democracy into the process. However, not all countries have the required technology and resources to make use of the webcast. The languages of the broadcast are limited to the native language and English and exclude other language groups from participation.

A group of NGOs from **Belarus** which submitted a joint stakeholder submission arranged a well visited side event by assistance of CIVICUS prior to the review of Belarus. The topic was “Article 193” which is a relatively new article adopted in the criminal code in 1992 criminalizing unregistered NGOs by larger fines or longer imprisonment. One of the NGO representatives from Belarus made an account of the negative effects the law amendment has had on the activities of civil society in Belarus. Another activist told her personal story of four months imprisonment as the first person prosecuted according to article 193. Finally, a third NGO representative informed of activities civil society has engaged in to protest about article 193 and attempts made to discuss the problems with the public authorities. The panel of activists encouraged the state representatives attending the side event to consider the recommendations they had made to bring them up during the interactive dialogue with the Belarus state delegation.

Step 7: Working Group report: direct commenting

The interactive dialogue results in a Working Group report (30 pages) summarizing the review process including questions raised, discussion points, recommendations by the Working Group and observer states as well as the presentations, comments and views expressed by the reviewed state delegation. A separate part of the report lists the entire set of recommendations which the state under

review will consider for adoption, further considerations or rejection. In some cases the concerned state makes immediate voluntary commitments.

The HRC will in an upcoming plenary session adopt an outcome report which includes the Working Group report as well as other documentation such as response to the recommendations by the state under review and the decision of the outcome. The plenary discussion is allocated for each of the reviewed states. The one hour discussion is divided evenly between the reviewed state (20 minutes), members of the Council and observer states (20 minutes) and stakeholders (20 minutes). After this the plenary will adopt the outcome report.

The adoption of the outcome report is the direct follow up to the interactive dialogue and it usually takes place in the coming plenary session of the HRC. This can span between 4-6 months after the interactive dialogue.

The plenary discussion provides a unique opportunity in the UN system for the national and other stakeholders to directly comment on the outcome report. As during the interactive dialogue stakeholders can only attend such sessions in the Council if they are ECOSOC accredited or are invited by another accredited organization. The stakeholders can express their own independent views but are often constrained to address topics raised in the National Report or during the Working Group review of the state.

These sessions are also webcasted and the national stakeholders can again organize events, media briefings, TV transmitted discussions etc. to draw the attention of the public to the outcome discussion and especially which recommendations the state adopted or rejected.

To illustrate the varied extend of stakeholders making use of the possibility to comment verbally on the outcome reports of 10 June 2010 at the 14th session of the HRC the numbers are:

| Country reviewed | # stakeholder comments on outcome report |
|-------------------------|---|
| Fiji | 3 |
| Madagascar | 4 |
| United Kingdom | 3 |
| San Marino | 1 |

| | |
|-------------|----|
| El Salvador | 1 |
| Angola | 6 |
| Iran | 10 |

The stakeholders most often include a combination of international, regional and national NGOs.

The commenting on the outcome report can also be done later on and in the country just reviewed. However, in such cases the commenting will not be included in the outcome report. After the conclusion of the UPR of Bangladesh at the 11th session of the HRC e.g. the NGO, Asian Legal Resource Centre, made a public statement about the outcome report in which it commented especially on the rejected recommendations.

Phase 3: Follow up on recommendations (country)

Step 8: Dissemination of recommendations and systematic implementation

The UPR mechanism is divided so that there is a four year span between the reviews of the states. This should leave four years for the newly reviewed state to implement the adopted UPR recommendations. However, due to the preparation and hearing process as well as the time lag between the review of the state to the adoption of the outcome report, the time left for implementation is reduced considerably and approximately three years are left for this.

The suggested guidelines for stakeholders encourage relevant stakeholders to contribute to the follow-up to the outcome of the UPR process and suggest this to be done in two ways: 1) follow-up action could be undertaken in cooperation with the State entities, to whom the recommendations are addressed and 2) stakeholders may disseminate the outcome of the UPR at the national level.

Once the outcome report is adopted by the HRC, the state can start the planning and carrying out of the implementation of the UPR recommendations. The period for this is until the next UPR review of the state.

If possible, the different national stakeholders can in a joint forum with the human rights focal point in the state directly contribute to the formulation of a national action plan, strategy, policy papers, reform programmes etc. based on the UPR recommendations. In addition, indicators should be formulated to enable monitoring of progress of the recommendations. If there is no focal point in the

state for this task it should be suggested to have it established. Facts based dialogue could be an excellent approach to apply during the implementation process to encourage broad hearings taking point of departure in ongoing and relevant human rights documentation¹³.

If NGOs, NHRI and other independent stakeholders are not invited to participate directly they can submit written comments or alternative suggestions and encourage the state to conduct open hearing meetings. In cases where no initiatives are taken by the state, the national stakeholders might have to resort to more powerful strategies in order to press for such actions.

The independent organizations, NHRIs etc. can in such countries formulate their own indicators and themselves carry out the monitoring of selected or all UPR recommendations.

Regardless of the follow-up situation after the review, the stakeholders ought to create public awareness of the adopted UPR recommendations as well as the response of the state. It is especially important to make use of the media to draw attention to the implementation plans and initiatives if any made by the state. If the recommendations are not translated into all major languages in the country this would be an obvious starting point.

As example of best practices, **Bahrain** has developed National Plans of Action which include UPR recommendations. Bahrain has also set up a steering committee to monitor the implementation which includes members of the government, the NHRI and NGOs. Another best practice is to provide an update to the HRC. Countries such as Bahrain, **Colombia**, the **Czech Republic**, the **Republic of Korea**, **Romania**, **Switzerland**, the **United Arab Emirates** and the **United Kingdom** have already provided information. In Switzerland and **Canada** the civil society is involved in the follow up process through regular meetings and consultations with the government.

Step 9: Systematic monitoring

In some countries a part of the implementation of the UPR recommendations will involve formulation of indicators and continuous measuring of progress in this process. In other cases this

¹³ DIHR has developed a methodology, facts-based dialogue, which takes point of departure in the concerned country's international human rights obligations and documented human rights concerns which are presented and debated in broad national hearings. The hearings result in recommendations which provide the directions for the further process of systematically address and improve the relevant legislation and/or implementation.

will not be a part of the state initiative and the NGOs, networks, NHRI etc. could remind, encourage and assist the state in the development and use of indicators. Indicators can be seen as a transparent tool measuring the degree of implementation.

It is important that the NGOs, and possibly in cooperation with the NHRI, in addition continue their own independent monitoring of the human rights record in the country since this will in the next reviews once again be included and considered. Monitoring of the state implementation of the adopted recommendations is particularly relevant in this connection but equally important are also human rights concerns which were not addressed in the recommendations adopted by the state. As a part of this, the UPR process in the country should also be monitored and assessed.

In **West Africa** human rights defenders formed a regional coalition consisting of 16 countries. The coalition was formed to focus on the UPR process. Joint capacity building was carried out and strategies and action plans for the platform formulated. Strategies were also developed in each country taking the national contexts into consideration. Efforts were put on the hearing process and civil society participation in the review of the West African countries in Geneva. However, also the monitoring of the recommendations in the countries was highly prioritized. Two years after each UPR review a mid-term evaluation including government participation was conducted to assess progress and lack of progress. In countries with human rights ministries and NHRIs these were always involved.

IV. The role of National Human Rights Institutions

Christoffer Badse

The UPR and the process which surrounds it, is ideally suited to the work of NHRIs. The process covers essential parts of the work of an NHRI given that the mandate of a NHRI encompass counseling to state entities on human rights matters, to cooperate with NGOs, to assist in human rights education, and raise public awareness as well as acting as bridgehead to the international human rights system assisting in narrowing the “implementation gap” on the domestic scene and improving the effective enjoyment of human rights for all. However, the NHRI will have to take point of departure in the given national context when engaging itself in the process. Especially the cooperation with the state will depend on the perceptiveness of the state to promote human rights issues. In countries where this is a challenge the national strategy will be less offensive.

Resolution 5/1 allows for an active engagement of NHRIs in the UPR mechanism. The UPR shall “ensure the participation of all relevant stakeholders, including NGOs and NHRIs, in accordance with General Assembly resolution 60/251 of 15 March 2006 and Economic and Social Council resolution 1996/31 of 25 July 1996, as well as any decisions that the Council may take in this regard”. (Paragraph 3 (m))

The NHRI potentially has a unique role to play in advising the state on the UPR, co-organizing and co-hosting public consultations, consulting civil society on the process and preparing its own UPR submission. Finally, the NHRI has a task in the follow-up procedure ensuring effective implementation of accepted recommendations.

The NHRI can make an impact on the UPR process in various ways:

1. Dissemination of knowledge on the UPR
2. Engage state and civil society in the process and inform of obligations and opportunities
3. Submission of a NHRI stakeholder report
4. Facilitate and assist other stakeholder reports with technical assistance
5. Assist state in the consultative process of the National Report

6. Prepare suggestions for advanced questions and publish it on website
7. Public information campaign before the review
8. Consult with civil society organisations and state before the review
9. Consider side events and interaction with diplomatic missions
10. Attend the review in Geneva
11. Follow up on commitments made by the state in relation to recommendations
12. Scrutinize rejected recommendations
13. Approach state in follow-up process to ensure implementation of pledges without delay
14. Ensure domestic media coverage, dissemination and translation of recommendation and National Report and stakeholder reports.

The entity of the NHRI: The uniqueness of NHRIs and its special responsibilities

NHRIs are in a unique position in that they are state funded entities established by an act of the state but at the same time independent from the government, i.e. they are neither governmental, nor non-governmental. NHRIs are natural focal points at the national level by linking several actors e.g. state and civil society, but also in regard to the international system by being the natural point of entry for the international system for an independent knowledge base on the present domestic human rights situation. NHRIs have increasingly become crucial partners in narrowing the ‘implementation gap’. NHRIs as independent non-judicial bodies are particularly important when it comes to addressing state obligations of a preventive and fulfilling nature. NHRIs may also help ensuring indivisibility and interdependence of all human rights. They bring independent expertise and a local perspective to regional and international fora.

A NHRI shall, according to the Paris Principles have the competence to protect and promote human rights and shall possess a broad mandate. Due to the indivisibility and interdependence of human rights, all human rights should be appropriately reflected in the NHRI’s mandate.

The UN Paris Principles are the principal international source of normative values for NHRIs, which establish the minimum standards required for their effective functioning. An international monitoring mechanism (the International Coordination Committee) exists to periodically assess the functioning of a NHRI. Thus a NHRI can be accredited with an “A - status”, meaning that there is compliance with each of the Paris Principles.

The Paris Principles require NHRIs to fulfill certain functions or responsibilities. At the national level, NHRIs should advise state entities on human rights matters, cooperate with NGOs, assist in human rights education/research, and raise public awareness about the national human rights situation. Several responsibilities relate to the NHRI's role at the connection between the national and international dimension; in that regard NHRIs should ideally:

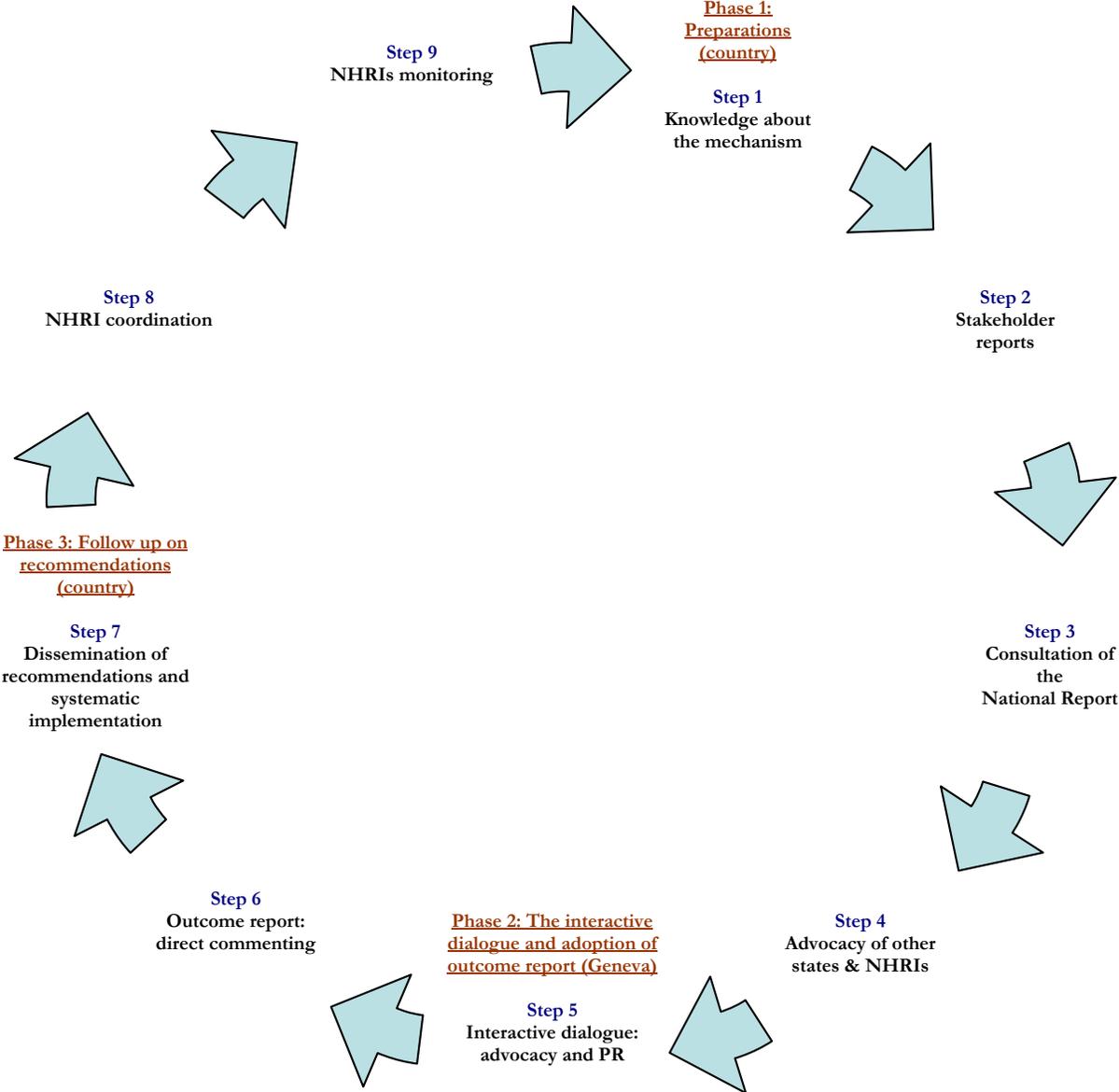
- encourage the ratification or accession to international human rights instruments;
- ensure the harmonization of national laws with international human rights standards and follow up at the national level to recommendations resulting from the international human rights system;
- engage with the international human rights system, in particular the HRC including its mechanisms (Special Procedures) and the UN Human Rights Treaty Bodies (e.g. contribution of NHRIs to states' reports to treaty bodies or establishment of 'parallel reports'), and contribute to the drafting of international human rights instruments.
- cooperate with NGOs and other NHRIs as well as other national and international stakeholders.

Only A-accredited NHRIs dispose of a range of rights including voting rights in the International Conference of NHRIs or Conferences of the Regional Groupings, and full participation rights in international fora (e.g. right to participate and speak in their own right from a designated seating area during the deliberations of the HRC and other UN organs).

Thus, especially A-accredited NHRIs are an important human rights actor at national and international level due to their crucial role in addressing the so-called 'implementation gap', in monitoring the effective implementation of international human rights standards at the national level and in theory be able to include all human rights in a credible way given its broad legal mandate, its independence and its expertise.

The next page shows the UPR wheel seen from the NHRI's perspective, first cycle. Each step is then explained in further detail in the text which follows, including best practice, cases from reviews already undertaken etc.

The UPR wheel seen from the NHRI's perspective, first cycle:



Phase 1: Preparations (country)

Step 1: Knowledge about the mechanism

Obtaining information and expertise

First priority should be that, resources are set aside to develop in-house expertise on the mechanism well in advance of the actual domestic process. Since several countries have gone through the process the NHRI will be well advised to seek good practice and obtain updated information on the latest development and share this with NGOs. Also international NGOs dedicated to the UPR-Process continuously make information and updates available on the internet.¹⁴

Disseminating information

NGOs typically have a larger public outreach and therefore a constructive and fruitful cooperation should be initiated by the NHRI with central NGOs at an early stage to be able to draw public interest and participation to the process as well as providing feedback and specialist knowledge. Due to NHRI's familiarity with the international system and international network NHRIs are well suited to be focal point for obtaining experience abroad and disseminating it among local stakeholders.

In relation to the state the NHRI is ideally placed to convince the state to distribute adequate resources into the process making use of well known channels of communication. The NHRI should likewise advocate the state for an early start of the participatory process (consultative national process). It should be noted that the NHRI is not able to take on these roles in all countries and in such cases the NHRI might have to invest more intensively in efforts to pressure the state to engage in the UPR process and if this fails e.g. identify other non-governmental stakeholders to cooperate with in a separate process.

Ideally the NHRI should appoint a UPR Liaison officer among staff at the NHRI and make the person known to state representatives, NGOs and other stakeholders. The position and the person could be the focal point for inquiries and dissemination of information.

¹⁴ See e.g. <http://www.upr-info.org/>

The broad awareness raising initiatives can be carried out especially by the NHRI and state in cooperation with the NGOs making use of their effective public outreach.

There are no fixed guidelines for doing information activities. Ideally the civil society, the NHRI and state could initiate informative activities jointly or complementary in order to provide particular interested groups and individuals as well as the general public with information in the native language. This should be about 1) what UPR is, 2) how the national consultation process will be carried out and 3) how it is possible to participate in the process.

The information targeting specific groups and individuals, who will become active in the national consultation process and especially those wishing to prepare stakeholder submissions, should clarify the UPR procedures, deadlines, formats etc. The information can be prepared for example as toolkits or short text with graphics illustrating the UPR steps. These could be distributed by mail or post, communicated through websites. Meetings and training could be arranged to provide more in-depth information to the target groups.

The general awareness raising should be broad in scope and the information about UPR ought to be general, educational, easy to understand and appealing in order to reach as many as possible in the general public. Ideally booklets, illustrated handouts, posters etc. could be prepared and distributed widely for free at accessible places, websites etc. The electronic media, TV, radio etc. could provide complementary ways to spread awareness about UPR.

Since the NHRI and other stakeholders submit stakeholder reports six months before the review of the state in Geneva the information activities should ideally begin 12-14 months before this takes place.

Ideally, the NHRI could initiate separate kick-off meetings with state and NGO representatives to encourage an early preparation of the national consultation process and compilation of reports.

Step 2: Stakeholder reports

Three reports serve as a basis for each state review and provide the following information:

- Information from the state under review (National Report) including information on achievements, best practices challenges, constraints as well as key national priorities in addressing shortcomings;
- A 10 page compilation of information contained in the reports of the independent human rights experts and groups, known as the Special Procedures, human rights treaty bodies and other UN entities;
- A 10 page compilation of information from NGOs, NHRIs and “other stakeholders” (stakeholder reports).

Stakeholder reports should provide credible and reliable information which should be taken into consideration by the Council in the review (together with National Report and the compilation of UN documents) in the form of summarized document of 10 pages of all the alternative reports. Thus, the summarized document consists of information from NGOs, NHRI and other sources.

Who and how much?

Stakeholders are defined as NGOs, NHRIs, human rights defenders, academic and research institutions, regional organizations and civil society organizations. This group is encouraged to either submit their own independent individual report (5 pages) or joint reports (10 pages) to the review.

All of the received stakeholder submissions (including the NHRI submission¹⁵) are merged by OHCHR into one compiled stakeholder report (10 pages).

What should be in the report?

1. The review of the state takes point of departure in the UN Charter,
2. The Universal Declaration for Human Rights, and
3. The human rights instruments which the country is party to.

¹⁵ Examples of submission made by NHRI can be found here:
http://www.nihrc.org/dms/data/NIHRC/attachments/dd/files/82/Submission_to_UN_Universal_Periodic_Review.doc

The format and structure of reports submitted by stakeholders follow the General Guidelines adopted by the HRC which also apply to National Reports and UN information reports. Information about the following seven main points could be considered:

1. The broad consultation process followed nationally for the preparation provided to the UPR by the country under review;
2. The current normative and institutional human rights framework of the country: constitution, legislation, policy measures such as national action plans, national jurisprudence, human rights infrastructure including NHRIs;
3. The implementation of the normative and institutional human rights framework as described above in point 2;
4. Cooperation of the country under review with human rights mechanisms including NHRIs, NGOs, rights holders, human rights defenders, and other relevant national human rights stakeholders;
5. Achievements and best practices made by the country under review and *challenges and constraints* faced by the country under review;
6. Key national priorities as identified by stakeholders, initiatives and commitments that the State concerned should undertake, in the view of stakeholders, UN treaty bodies etc. to improve the human rights situations on the ground.
7. Expectations in terms of capacity-building and technical assistance provided and/or recommended by stakeholders through bilateral, regional and international cooperation.

In the suggested guidelines prepared by OHCHR stakeholders are furthermore encouraged to prepare reports which are:

1. specifically tailored for the UPR contain credible and reliable information on the state under view;
2. highlight the main issues of concern and identify possible recommendations and/or best practices;
3. cover a maximum four-year time period, and
4. does not contain manifestly abusive language.

In reality stakeholders can often draw on their existing human rights documentation when engaging in the stakeholder reporting. Their earlier submitted parallel reporting to the UN treaty bodies can also be applied in this connection although it has to be adjusted to the requirements. The stakeholder report prepared especially for UPR can be a combination of adjusted summaries of existing data, findings, conclusions and recommendations and new added text. The OHCHR guidelines allow for additional documentation to be annexed for reference. It is however important to keep in mind the target group of a report. For UN treaty body reporting the recipient of parallel stakeholder reports are international experts in the specific field of a given UN convention. Detailed information and recommendation can therefore be made. The target group is state representatives who are engaging in interactive dialogue with several states in each working group session. The information should therefore be easily accessible and recommendations should be specific.

Due to the very limited number of pages it is suggested that a few issues should be singled out – ideally between 5 or 10 issues depending of the number of pages submitted. Naturally the issues that give rise to the most serious concerns should be addressed. The NHRI should be in dialogue with NGOs to avoid overlapping on issues or avoid contradictory assessments. Also the NHRI should be able to facilitate and coordinate discussions with NGOs, to call to meetings and provide general guidelines on structure, deadlines, style and content of the NGO reports. A strategy for submission of individual and joint submissions (coalitions) could be developed with assistance by the NHRI. The NHRI could encourage joint submissions using concerns and recommendations already formulated for treaty bodies. Also NGOs lacking the required resources to participate more actively in the process could be approached by the NHRI for their input to the report. Technical assistance, guidance and qualitative review on NGO reports could be offered as a service.

In addition the liaison officer at the NHRI could monitor the process of drafting the state UPR report and inform regularly (by e.g. e-mail) the NGOs on any development, progress or obstacles in the process.

Unfortunately the stakeholder reports have deadline before submission of the National Report. It is therefore suggested that the NHRI attempts to ensure that topics not expected to be covered by the state report are covered by civil society organizations or the NHRI stakeholder report. The NHRI stakeholder report should prioritize between the seven reporting areas mentioned above and ideally supplement the state and other civil society stakeholder reports by reporting on areas not covered. If

the state for instance is expected to focus on best practice and other positive aspects of the domestic human rights situation while the NGO's focus on key national priorities the NHRI might consider reporting on main recommendations for improving the normative and institutional human rights framework. By being in contact with state representatives and civil society organizations the NHRI will be able to ensure that all seven points to some extent are covered in the reports.

The NHRI could attempt to ensure that the following areas are touched upon in the collected reports:

1. Equality and non-discrimination
2. Civil and political rights & fundamental freedoms
3. Personal liberties and security
4. Torture, and other cruel, inhuman or degrading treatment or punishment
5. Administration of justice
6. ESC rights (health, housing, education, work, social security...)
7. Women's rights and gender equality
8. Children's rights
9. Promotion and protection of the rights of specific groups, including: migrants, people with disabilities, minorities, indigenous peoples etc.

It should however also be noted that UPR reporting offers possibilities not available in treaty body reporting. Treaty body reporting covers the treaties ratified by the state and only each cover one specific convention. The broad and holistic focus of the UPR enables the stakeholder reports to include recommendations to ratify new conventions or focus on overall topics or topics not only indirectly covered by other UN treaties (e.g. human rights and business or the rights of imprisoned or detained persons). Furthermore repetition of treaty body recommendations should also be kept to a minimum since these will be reflected in the compilation of treaty body recommendations.

When?

The deadline for submitting stakeholder reports during the first UPR cycle is six month before the state is scheduled to be reviewed in Geneva. The state needs to submit the National Report 6-13 weeks before the review. Consequently the stakeholders are sometimes engaged in the preparation of the reporting before the state. The stakeholders are likely to start their preparations at least 12

months before the review especially in cases where several stakeholders decide to prepare a joint submission.

Stakeholders' submissions should be sent to uprsubmissions@ohchr.org. Title e.g. Danish Institute for Human Rights UPR submission-Denmark-Nov 2010

Alone or together?

Experiences have shown that the joint stakeholder submissions are encouraged and appreciated. It carries more weight when participating stakeholders succeed in reaching consensus about the human rights situation and recommendations to improve it in the concerned country. Organizations and others wanting to jointly prepare a report are especially in need of an early start to coordinate their report writing well.

Due to the special mandate of the NHRI it is recommended that the NHRI submit its own stakeholder report, which means that a 5 page report should be submitted by the NHRI.

Kenya is an example of how a NHRI can engage in stakeholder submissions to UPR. Kenya National Commission on Human Rights took the initiative to facilitate the civil society organizations in preparing a joint submission. This initiative resulted in comprehensive cooperation developing into the Kenya Stakeholders' Coalition comprising of 97 national and international organizations and institutions preparing a joint stakeholder report. In addition to the facilitation of this process the Commission prepared its own independent NHRI report. The Commission furthermore invited the state to discuss the UPR process, National Report etc.

Step 3: Consultation of the National Report

According to the guidelines, states are encouraged to prepare the information they submit in the National Report "through a broad consultation process at the national level with all relevant stakeholders"¹⁶. There is no further advice on how this can be carried out and during the first UPR cycle the initial ways to carry out national consultation processes have therefore also varied greatly. In some cases states have initiated countrywide meetings, made use of media to disseminate information about the mechanism and for broad discussions of the contents of the National Report,

¹⁶ Suggested guidelines for "Relevant Stakeholders" wishing to provide information to the Universal Periodic Review, OHCHR, July 2008

opened UPR web-sites for stakeholder comments etc. In some instances stakeholders were consulted at an early stage and re-consulted after the full developed draft or re-drafts of the National Report were made available. In other countries two workshops in the capital constituted the national consultations. Ideally the state should conduct a consultative process as participatory as possible including:

- Public hearings in all major regions
- Accessibility by disabled people to the locations
- Tools and aid for the visual impaired and for people with impaired hearing
- Information available in all the major languages of the country
- Information and pamphlets in public institutions on the hearings
- Website and digital access on the National Report and the consultative process
- Co-hosting the public hearings with the NHRI

The National Report has to be submitted by the latest 6-13 weeks before the UPR review of the state takes place. In order to allow for a comprehensive hearing process the activities should start 10-12 months before the review of the state.

The NHRI should at an early stage try to influence the consultation process especially if it is expected that only symbolic consultations will be held. After identifying which government agency will be responsible for the UPR National Reporting the NHRI can make inquiries on how and when the state plans to carry out consultations. Ideally the NHRI could provide the state with assistance in the consultative process co-hosting it and also the NHRI should take advantage of its network of NGOs to ensure the best possible outreach to the interested public as possible.

The main purpose of the national hearing process is for the stakeholders to influence and provide inputs to the National Report so that it reflects 1) a real and comprehensive picture of the actual human rights situation in the country, 2) the efforts made by the state to progressively improve it and 3) that the proposed recommendations to improve the situation are important, relevant and substantial.

Influencing the content of the National Report

Representatives from the NHRI should also in the process attempt to influence the content of the report and assist the state with information and reports which the NHRI might have drafted to international monitoring mechanisms but which the state is unaware of. In addition to its stakeholder report the NHRI should assist the state and the civil society organizations in identifying a broad range of human rights issues preferably including topics which the NHRI will deal with in detail in its stakeholder report. NHRI should in the dialogue with the state representatives' advocate for some self reflection and identification of main human rights issues and shortcomings in the effective domestic implementation in the National Report. These challenges are often not sufficiently addressed in the National Report. A good practice for the state is to circulate a draft of the National Report for key stakeholders to comment upon before final submission. Naturally the stakeholders should be provided with adequate time to provide comments. The NHRI should advocate for this approach on behalf of all civil society organizations.

Step 4: Advocacy of other states and NHRIs

The review of the state in Geneva will be conducted by the members of the Working Group under the HRC supplemented by observer states. Prior to the review it is possible for members of the Working Group or other member states to prepare written questions and their oral questions, comments and recommendations for the interactive dialogue which forms the first step of the review of the country.

Written question on essential issues and challenges provides the states under review with time to prepare and explain themselves and therefore improve the potential output and quality of the entire UPR process. Input to this part of the process by the NHRI should therefore not be underestimated.

It varies considerably how far in advance each state prepares themselves for the review of other states. It might be worth while to share experiences with other organizations or NHRIs to assess when the right time is to approach specific states to discuss questions and recommendations. Larger states tend to start the process earlier since their procedures require the approval of the government in advance. Smaller states might be possible to approach on a shorter notice since their procedures might be more direct and rely on their UN representation in Geneva. Another factor is the priority of the countries under review. Not all states prepare questions and recommendations for all of the 16 countries which are reviewed in each Working Group session. It is quite a challenge to identify

which states are willing and perceptive to engage in each of the 16 states under review. Finally, some state has identified human rights priorities and will only be willing to raise questions and recommendations within those.

In the opinion of the author, it would also be advisable to wait until the National Report is published. It is then easier to address issues which have been forgotten or deliberately ignored by the state. Also quite some consideration on which state to approach would be wise for the NHRI to take. Research on main focus areas or highly prioritized areas within the field of a particular state should be initiated before a state should be approached. States with a high moral standing and a good human rights track record should be preferred. Also considerations as to states which have same cultural values or like minded states as the state under review could play an influence in the decision if these states can be convinced, since it would be more difficult for the State under review to reject questions on sensitive issues from states which the State under review identifies more easily with.

An alternative approach would be to publish a list on the website of the NHRI and inform that whoever might be interested is welcome to make use of the list of questions. This is a more transparent approach however somewhat unpredictable.

The national stakeholders but also regional and international organizations can contact other countries either through their UN representations in Geneva or their embassies or diplomatic representations in country to be reviewed. The national stakeholders can propose central human rights questions, concerns and recommendations to be raised by other countries if these are not included in the National Report.

Experiences show that states such as Brazil, Guatemala, Mexico, The Republic of Korea and some in the Western group have been receptive to being approached by NGOs even just before or during the review of a state.

It is suggested that a NHRI could make use of the international network of NHRIs to forward questions and recommendations. The NHRIs in the receiving countries can approach the Ministry of Foreign Affairs and suggest questions to be raised by that particular state to the state under review. Especially NHRIs which do not enjoy A-accreditation could raise this through other NHRIs.

However, this approach should be applied very strategically in order not to burden NHRIs to constantly bring up issues and recommendation on behalf of other NHRIs.

Phase 2: The interactive dialogue and adoption of outcome report (Geneva)

Step 5: The interactive dialogue: advocacy and PR

The interactive dialogue takes place between the Working Group under the HRC in Geneva and the state under review. During this the national stakeholders can in several ways make use of the attention of the interactive dialogue. Organizations with ECOSOC status can attend the sessions but they are not allowed speaking time. The three hour interactive dialogue is made available live and archived on web-cast by OHCHR and transmitted in the official language of the country and in English. NHRIs are not allowed to speak but should attend the review to maintain last minute pressure by advocating other states to bring up certain questions and recommendations and show interest in the process as well as to be able to inform media on the performance of the state under review. If a NHRI does not have the required ECOSOC status they might contact Geneva based NGOs with ECOSOC status to apply for enrollment on their behalf. Further information about how stakeholders can obtain ECOSOC accreditation, how to make reservations for side events etc. can be found on the OHCHR's website.

Once present the NHRI can attend the interactive dialogue as an observer. The NHRI can inform NGOs of the possibility to establish side-events, media briefings etc. in the UN premises with the purpose of drawing broad and public attention to the review. It is important that the media from the country under review is also present to cover such events. NHRI can naturally also themselves act in similar ways depending on the tradition, nature and political climate of their country of origin.

The web-casted interactive dialogue holds excellent advocacy and PR potentials. Especially stakeholders in the country under review can make use of this and draw attention to the review by organizing live round table debates with state and civil society representation to be transmitted through TV, large scale civil society meetings, live media events etc. in the country under review.

Step 6: Outcome report: direct commenting

The interactive dialogue results in an outcome report (30 pages) after 48 hours summarizing the review process including raised questions, discussion points, recommendations by the Working Group and observer states as well as the presentations, comments and views expressed by the reviewed state delegation. A separate part of the report lists the entire set of recommendations which the state under review will consider for adoption, further considerations or rejection. In some cases the concerned state makes immediate voluntary commitments.

The HRC will in an upcoming regular session consider the outcome reports for adoption. Before this a plenary discussion is allocated for each of the reviewed states. The one hour discussion is divided even between the reviewed state (20 minutes), members of the council and observer states (20 minutes) and stakeholders (20 minutes). After this the plenary will adopt the outcome report.

The adoption of the outcome report is the direct follow up to the interactive dialogue and it usually takes place in the next regular session of the HRC session. This can span between 4-6 months after the interactive dialogue.

The plenary discussion provides a unique opportunity in the UN system for the NHRIs to directly comment on the outcome report. As during the interactive dialogue stakeholders can only attend such sessions in the Council if they have ECOSOC accreditation or are invited by another accredited organization. The stakeholders can express their own independent views but only in topics raised in the National Report or topics raised in questions and recommendations posed by other states during the interactive dialogue.

These sessions are also webcasted live and the NHRIs can organize events, media briefings, TV transmitted discussions etc. to draw the attention of the public to the outcome discussion and especially which recommendations the state adopted or rejected. NHRIs should especially scrutinize rejected recommendation and assess whether the explanation put forward by state is credible. Such an assessment could be a key issue in the media coverage on the outcome report.

Phase 3: Follow up on recommendations (country)

Step 7: Dissemination of recommendations and systematic implementation

The UPR mechanism is divided so that there is a four year span between the reviews of the states are carried out. The preparation and review process are time consuming and leaves approximately three years for the newly reviewed state to implement the adopted UPR recommendations.

The suggested guidelines for stakeholders encourage relevant stakeholders to contribute to the follow-up to the outcome of the UPR process and suggest this to be done in two ways: 1) follow-up action could be undertaken in cooperation with the State entities, to whom the recommendations are addressed, and 2) Stakeholders may disseminate the outcome of the UPR at the national level.

Once the outcome report is adopted by the HRC the state assisted by the stakeholders can start the planning and carrying out the implementation of the UPR recommendations. The period for this is until the next UPR review of the state which takes place every four years.

If possible the different national stakeholders can contribute directly in a joint forum with the human rights focal point in the government and help formulate a national action plan, strategy, policy papers, reform programs etc. based on the UPR recommendations. In addition indicators should be formulated to enable monitoring of progress of the recommendations. Facts based dialogue could be an excellent approach to apply during this process to encourage broad hearings taking point of departure in ongoing and relevant human rights documentation¹⁷.

If NGOs, the NHRI and other independent stakeholders are not invited to participate directly they can submit written comments or alternative suggestions and encourage the state to conduct open hearing meetings. In cases where no initiatives are taken by the state the national stakeholders might have to resort to more powerful strategies in order to pressure such actions.

¹⁷ DIHR has developed a methodology, facts-based dialogue, which takes point of departure in the concerned country's international human rights obligations and documented human rights concerns which are presented and debated in broad national hearings. The hearings result in recommendations which provide the directions for the further process of systematically address and improve the relevant legislation and/or implementation.

The independent organizations, NHRIs etc. can in such countries formulate their own indicators and themselves carry out the monitoring of selected or all UPR recommendations.

Regardless of the follow-up situation after the review the stakeholders ought to create public awareness of the adopted UPR recommendations and especially through the media provide updated attention to the implementation plans and initiatives if any made by the state. If the recommendations are not translated into the official language in the country this would be an obvious starting point.

As example of best practices **Bahrain** has developed National Plans of Action which include UPR recommendations. Bahrain has also set up a steering committee to monitor the implementation which includes members of the government, the NHRI and NGOs. Another best practice is to provide an update to the HRC. Countries such as Bahrain, **Colombia**, the **Czech Republic**, the **Republic of Korea**, **Romania**, **Switzerland**, the **United Arab Emirates** and the **United Kingdom** have already provided information. In Switzerland and **Canada** the civil society is involved in the follow up process through regular meetings and consultations with the government.

Step 8: NHRI coordination

In order for the civil society, the NHRI and others to engage actively in the follow up process to the UPR a joint approach can be an excellent starting point. Especially when approaching a reluctant state a platform or network can be formed with the purpose of approaching the state more forcefully to suggest follow-up on some or all of the adopted UPR recommendations. Since the UPR covers all human rights issues, it would be natural for the NHRI to play a key role in facilitating the platform.

Depending on resources an invitation could also be made by the state to establish a permanent council with key stakeholders represented.

Individuals or bodies in the government who in other connections have been willing to cooperate with the NHRI and who are receptive to human rights can be approached in an informal manner for advice or possible involvement. The platform or network can analyze the situation and accordingly formulate a strategy designed to persuade the state to take action. No matter which strategy is adopted the outset ought to be those recommendations which the state voluntarily have adopted as a result of the UPR.

In cases of states positively committed to the implementation of the UPR recommendations NHRI networks and platforms can also seek to enter cooperation with the relevant state institutions with the purpose of offering their coordinated inputs and contributions and possible monitoring of the progress.

Individual NGOs, NHRIs and other stakeholders can in their areas of human rights specialization include relevant UPR recommendations and seek cooperation with relevant state bodies to promote the implementation of them.

An example could be annual meetings with parliament on the implementation process. The NHRI meets also regularly with various ministries where the UPR recommendations could have a permanent place on the agenda. Also report to parliament and various international and regional monitoring mechanisms could include a status on the implementation process.

Step 9: NHRI monitoring

In some countries a part of the implementation of the UPR recommendations will involve formulation of indicators and continuous measuring of progress in this process. In other cases this will not be a part of the state initiative and the NHRI could remind, encourage and assist the state in the development and use of indicators. Indicators can be seen as a transparent tool measuring the degree of implementation.

It is important that the NHRI and possibly in cooperation with the NGOs in addition continue their own independent monitoring of the human rights record in the country since this will in the next reviews once again be included and considered. The monitoring of the state implementation of the latest adopted recommendations are particularly relevant in this connection but equally important are also human rights concerns which were not addressed in the recommendations adopted by the state.

V. Annex

Annex I: List of participants

Seminar 15-17 September 2010

The Universal Periodic Review

Reporting methodologies from the positions of state, NHRI and civil society

The Danish Institute for Human Rights

Anders Buhelt, Director, Justice Department

Bent Vase, Corporate management advisor to DIHR

Burma Nyamaa, Project coordinator

Charlotte Flindt Pedersen, Vice Director

Christoffer Badse, Head of national monitoring and reporting

Erik Andre Andersen, Researcher

Lis Dhundale, Project manager

Lisbeth Arne Nordager Thonbo, Project manager

Martin Futtrup, Legal adviser

External resource persons

Abdel Wahab Hani, Arab Commission for Human Rights

André Dembélé, Ministry of Human Rights, Burkina Faso

Antonina Okuta, Kenya National Commission on Human Rights

Cynthia Gervais, CGervais International Inc.

Diallo Abdoul Gadiry, West African Network of HR Defenders

Helga Ervik, Ministry of Foreign Affairs, Norway

Marianne Lilliebjerg, Amnesty International

Petra Follmar-Otto, German Institute for Human Rights

Annex II: Seminar program

Seminar 15-17 September 2010

The Universal Periodic Review

Reporting methodologies from the positions of state, NHRI and civil society

Wednesday 15 September

13.00-13.15 Registration and coffee

13.15-13.30 Welcome and briefing about DIHR activities in the field of UPR

Charlotte Flindt Pedersen, Deputy Director, DIHR

13.30-14.00 Country case 1 of government considerations when preparing and conducting UPR hearings: Norway

Helga Ervik, Deputy Director, Ministry of Foreign Affairs, Norway

14.00-14.30 Country case 2 of government considerations when preparing and conducting UPR hearings: Burkina Faso

André Dembélé, Director General, Ministry of Human Rights, Burkina Faso

14.30-15.00 Questions and discussion

15.00-15.30 Team/coffee break

15.30-16.30 UPR and the state

The presentation is based on a circulated paper and is scheduled to take 40 minutes. It is followed by 20 minutes commenting by another expert.

The UPR reporting wheel concept from the point of view of the state

Lisbeth Arne Nordager Thonbo, Project manager, Justice Department, DIHR

Bent Vase, Corporate management advisor to DIHR, provides comments

16.30-17.00 Questions and comments to country case

Thursday 16 September

9.00-9.45 Experiences collected of roles/functions of Kenya National Commission on Human Rights in the UPR process

Antonina Okuta, Kenya National Commission on Human Rights

9.45-10.30 The role of German Institute for Human Rights in the preparations of the UPR of Germany

Petra Follmar-Otto, Head of HR Policy Department, German Institute for Human Rights

10.30-11.00 Questions and comments to both speakers

11.00-11.15 Tea/coffee break

11.15-12.15 UPR and the national human rights institutions (NHRI)

The presentation is based on a circulated paper and is scheduled to take 40 minutes. It is followed by 20 minutes commenting by another expert.

The UPR reporting wheel and the role of national human rights institutions

Christoffer Badse, Monitor and reporting expert, DIHR

Anders Buhelt, Director of Justice Department, DIHR, provides comments

12.15-13.00 Discussion in plenary

13.00-14.00 Lunch

14.45-15.30 Models and best practices of civil society participation in the UPR process

Marianne Lilliebjerg, Advisor, Amnesty International

15.30-16.30 UPR and the civil society

The presentation is based on a circulated paper and is scheduled to take 40 minutes. It is followed by 20 minutes commenting by another expert.

The UPR reporting wheel: the civil society perspective

Lis Dhundale, Project manager, Freedoms & Civic Participation, DIHR

Cynthia Gervais, President, CGervais International Inc. provides comments

16.30-17.00 Discussion in plenary

Friday 17 September

9.00-10.30 Panel 1: Focus on the national preparation process

Each panellist will make a 20 minutes presentation based on circulated papers. It is followed by 30 minutes discussion among the panellists.

Panellist 1: How are civil society and NHRIs able to influence the governments in the preparation of national UPR reporting?

Cynthia Gervais, President, CGervais International Inc

Panellist 2: The roles of DIHR in the Danish preparation process of UPR

Anders Buhelt, Director of Justice Department, DIHR

Panellist 3: African example of civil society cooperation in the national consultation process

Diallo Abdoul Gadiry, Chairman, West African network of human rights defenders

10.30-11.00 Questions and comments to panel

11.00-11.30 Tea/coffee break

11.30-13.00 Panel 2: Focus on UPR practices pointing forward

Each panellist will make a 20 minutes presentation based on circulated papers. It is followed by 30 minutes discussion among the panellists.

Panellist 1: Important ingredients for good civil society, NHRI and state cooperation in the UPR process

Abdel Wahab Hani, Permanent representative in Geneva, Arab Commission for Human Rights

Panellist 2: Recommendations to consider in the implementation of UPR recommendations

Bent Vase, Corporate management advisor to DIHR

13.00-13.45 Questions and comments to panel

13.45-14.00 Closing of seminar

14.00- Lunch



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