

OVERVIEW OF The Universal Periodic Review of States (UPR) and engagement of indigenous peoples

**Joan Carling, Asia Indigenous Peoples Pact
(AIPP)**

CONTENT:

- UN-HRC Resolution for the establishment of the UPR
- Basis of Review and Background
- Principles and objectives
- Process and Modalities
- Outcome and adoption

- IP engagement in the UPR
 - Objectives
 - avenues of engagement: preparation stage, during and post UPR session

The Universal Periodic Review: UPR: UNHRC resolution 5/1 Institution Building of the UNHRC

- It is a mechanism of the UNHRC to review the performance of **ALL** UN-member States on their implementation of their HR obligations on a **regular basis** (every 4 years)
- **BASIS of the REVIEW: Framework**
 1. The Charter of the UN
 2. The Universal Declaration of Human Rights
 3. The Human Rights instruments to which a State is party : **CERD, CEDAW, Rights of the Child, Declaration against torture and the additional protocol, etc**



The Universal Periodic Review (UPR)

Background:

low credibility of the former UN Human Rights Council in reviewing the performance of States in the implementation of their human rights obligations- selectivity of countries under review; lack of State's accountability

The HRC wants to project it has a better mechanism to address human rights issues of member-states

PRINCIPLES of the UPR

- Promote the universality, interdependence, indivisibility of HR
- Cooperative mechanism and for interactive dialogue
- Universal coverage and equal treatment of all States
- Fully involve the country under review
- Constructive, non-confrontational and non-politicized manner- objective, transparent

OBJECTIVES of the UPR

- The improvement of HR situation on the ground
- Fulfillment of State's obligation and commitments; assessment of positive developments and challenges
- Enhancement of State's capacity
- Sharing of best practice among States and other Stakeholders
- Support for promotion and protection of HR

Process and modalities of the Review

- Documents for the review:

1. Report of the State: 20 pages (states are encouraged to hold broad consultation w/ stakeholders at the national level)

2. Compilation of the OHCHR based on reports of treaty bodies, special procedures, to include observations and comments by the State concerned: 10 pages

3. Reports of other Stakeholders- to be summarized by the OHCHR to 10 pages

reports should

*** all reports should be ready 6 weeks prior to review schedule ;there is a deadline for submission of reports

Modalities or Conduct of the UPR

- UPR working group composed of all the 47- member States of the UNHRC shall convene the UPR session
- Observer State can participate including in the inter-active dialogue
- Other stakeholders (NGOs) can attend the review
- A group of three Rapporteurs from HRC members and regional groups (troika) will be formed to facilitate the review and prepare the report
- OHCHR will provide assistance to Rapporteurs / troika

Conduct of the Review

- The UPR session for each State is 3 hours w/ 1 hour extension if needed in consideration to outcome
- State concerned will present its report to be followed by inter-active dialogue: **comments and questions by members of working group- HRC members**
- Half hour is allotted for the adoption of report
- The final outcome will be adopted by the HR Council

OUTCOME OF THE REVIEW

- Report consisting of the summary of the proceedings, conclusion and recommendations, and the voluntary commitment of State concerned

- sharing of best practice

- emphasis on enhancing cooperation

- provisions for technical assistance

*** “UPR is not a blame and shame forum”

ADOPTION OF THE OUTCOME

- State concerned to be fully involved in the outcome
- State to have opportunity to present replies to questions and issues raised in the inter-active dialogue
- Other stakeholders may present general comments
- Recommendations **amenable** to State will be identified and **other recommendations will be noted**. Both will be in the outcome report to be adopted by the HR Council

Follow-up mechanism

- Outcome should be implemented primarily by the State concerned
- Subsequent review should focus on the implementation of the preceding outcome
- HRC to have standing agenda devoted to UPR
- International community to assist in the implementation of recommendations

Observations on the first UPR

- States were nervous and paranoid on what the review will entail
- States were more praising each other than being critical on human rights issues
 - *Regional State blocks/ groups made an agreement not to be critical to each other

EU States were more critical to developing countries

- Most questions and recommendations were more on ratification of UN instruments– CEDAW, rights of the child, Declaration against Torture
- States which received critical comments were evasive – Phil or even offensive- India

INSIGHTS ON IP ENGAGEMENT TO THE UPR

- **MAIN OBJECTIVE:**
- To include and mainstream IP human rights issues in the UPR for greater State accountability to IPs; and for the UNDRIP to be included as a basis for review

Avenues for engagement: Preparatory Stage

1. National broad consultation: lobby for inclusion and present the HR issues and concerns of IPs
2. Generate public awareness on IP HR issues during State's preparation of report and launch IP HR shadow report at the national level
3. Submission of shadow report to the OHCHR to include concrete recommendations to HRC: *please note of the deadline and the Guide*

Avenues of engagement: Prep stage

4. Written response to government report for submission to Troika and for advocacy/ awareness raising: promotion of UNDRIP
5. Lobby members of the Troika to look into IP issues and to include in the report
6. Lobby friendly States to raise comments and questions during inter-active dialogue: submit a list of questions at least 2-3 weeks prior to UPR schedule
7. Do alliance work and networking with HR organizations/Institutions for support/joint events/statements re UNDRIP inclusion among others

Avenues of engagement during the UPR session

- Attend the UPR session and lobby HRC member
- Organize press conference and issue press releases
- Organize side events and briefing sessions with support from others to draw greater participation
- Distribute copies of IP shadow report, response to State report and recommendations to HRC
- Do networking and solidarity building with NGOs, HR Institutions

POST UPR Session

- After the UPR report is adopted, it is also important to present IP views on the report and to monitor implementation of commitments made and lobby for positive recommendations made by States
- Continue to conduct documentation work on human rights violations and related issues to be used for the next session of UPR
- Use other mechanisms of the HRC: Treaty Bodies, Special procedures