



# DIPLOMACY TRAINING PROGRAM

AFFILIATED WITH THE FACULTY OF LAW AT THE UNIVERSITY OF NEW SOUTH WALES  
A training program for peoples of the Asia-Pacific region

## A Quick Guide on the UN's Universal Periodic Review (UPR)

An Opportunity for Advocates for the Human Rights of Migrant Workers<sup>1</sup>

*The UPR 'has great potential to promote and protect human rights in the darkest corners of the world.'*

Ban Ki-moon, UN Secretary-General

### Summary

The UPR was created in 2006 as a process of the UN Human Rights Council. It supplements the UN's other monitoring and accountability mechanisms – the UN's Human Rights Council Special Procedures and the UN human rights treaty bodies. The process reviews the human rights situation in each of the 193 United Nations Member States every 4.5 years in a cycle intended to have cumulative impact.

The UPR process provides opportunities for human rights defenders

- *to raise their concerns about specific human rights issues,*
- *to have specific questions asked of own governments,*
- *to unify civil society focusing on Migrant Workers Rights to develop and draft specific recommendations to change conditions in own country and destination countries*
- *to influence UPR recommendations for improving the human rights situation in their countries – and the countries of destination for migrant workers*
- *to have their recommendations for change adopted by the UN and their own governments (and the governments of countries of destination for migrant workers)*

The recommendations to governments that come out of the UPR process can be the focus of further advocacy in relation to implementation.

NGOs/CSOs may choose to engage with the UPR process as part of their overall advocacy strategies for change, where they believe that international exposure and UN recommendations can add momentum or pressure for change.

Migrant workers NGOs have begun to engage with the UPR process, often in alliance and collaboration with other human rights NGOs. The outcomes of this NGO engagement can be seen in the UPR recommendations made in relation to a number of countries of origin and destination. Some examples are given at the end of this document.

The UPR process provides opportunities for migrant workers' NGOs to advocate for change in their own country – but also for change in countries of destination. The UPR process

<sup>1</sup> This quick guide was written in August 2015 by Joshua Cooper and Patrick Earle

may also provide opportunities for NGOs in countries of origin and destination to work together on shared advocacy strategies – seeking to influence the UPR outcomes and recommendations in both countries.

This document provides a brief introduction to the UPR Process and it provides some advice and guidance on the way that NGOs can best engage with the UPR Process. It also provides links to other sources of information and advice – from the UN and from specialist human rights NGOs that can be of help to NGOs considering whether and how to use the UPR process in their advocacy strategies.

UPR Info ([www.upr-info.org/](http://www.upr-info.org/)) provides simple and easy to follow guides on the UPR process - including short videos, and online tutorials. It also gives access to the recommendations that have already been made for every country, including in relation to migrant workers.

## Overview of UPR

Through the cyclical process of UPR, an inter-governmental mechanism of peer-review, the UN Human Rights Council (HRC) will oversee and evaluate, on a periodic basis, the human rights situation in each UN member state every 4.5 years.

The intended and official aim of this mechanism is to improve the human rights situation in all countries (states) in a universal and transparent way.

The UPR review of a State is based on:

- (a) a summary of information submitted by ‘other stakeholders’ (including civil society actors, national human rights institutions and regional organizations), prepared by OHCHR;
- (b) information contained in the UN reports based on actual reviews of independent human rights experts and groups, known as the UN Human Rights Council UN Special Procedures, UN human rights treaty bodies, and UN Specialised Agencies (UN Women, UNICEF etc); and
- (c) a ‘national report’ prepared by the State under review

**The public review process** takes place in a public session of the UN Human Rights Council and involves interactive discussion between the State under review and other UN Member States. There is no space given to NGOs or civil society to participate in this interactive dialogue.

It is a process that is intended to be neutral and impartial, but is inevitably influenced by politics and perceptions of national interests. Most governments do not like to be criticised publicly, especially by other governments, or to have critical recommendations made by other governments – and their diplomacy before, during and following the review aims to prevent such criticism. However, it is possible to guide the review through interacting with governments in one’s own capital as well as in Geneva in multiple possibilities of mobilization.

All the UPR reviews are available to be watched live on webcasts through the UN website.

**The adoption of recommendations** follows this interactive review. An outcome report is based entirely on the States’ statements in the actual review and is prepared with assistance from OHCHR, the troika and the involvement of the State. The outcome report provides a summary of the discussion that occurred and includes questions, comments and

recommendations made to the country under review and the responses of the State under review.

At the adoption stage of the process, at a future UN Human Rights Council session (under agenda item 6), there are opportunities for NGOs to make brief statements. There are ten NGO speaking slots for two-minute interventions for every state under review.

States have the option to accept or to note recommendations – but not to formally reject them – although in reality states note the recommendations that they do not accept and will not act on.

**Tip:** UPR Info is an NGO dedicated to assisting NGOs and advocates engaging with the UPR process and produces statistics on rates of implementation of UPR recommendations.

### **Implementation and Follow-Up**

The value of the UPR process to human rights NGOs is ultimately judged by the extent to which useful recommendations are implemented by governments and have an impact on realizing rights for migrant workers (and others). NGOs have sought reforms of the UPR to enable follow-up of recommendations – and to ensure that the following the first cycle, there is a focus in subsequent reviews on progress in implementation. The results have been greater number of states involved in the actual review and also 30 more minutes in each review. There is now a possibility for a mid-term review of the UPR recommendations where civil society can spearhead the process to implement the recommendations accepted and provide updates on the realization of the recommendations.

### **NGO Advocacy and Engagement with the UPR Process**

Since the UPR process was established in 2006, human rights NGOs have actively tried to engage with it, to explore and increase its potential to be an effective forum for human rights advocacy – and to integrate UPR advocacy into wider human rights advocacy strategies.

Advocacy and engagement with the UPR process can have a number of objectives:

- Developing contacts and collaboration with others working for human rights in your society – and in countries of destination
- Building awareness and concern for key issues that you are working on
- Opportunities to develop and build support for your recommendations for change
- Opportunities to engage in positive or critical dialogue and to seek support from your own and other governments
- Adoption by the UPR of recommendations for change as a way of increasing the possibility these changes will be accepted by your government/the governments of countries of destination.

Effective NGO engagement with the UPR process requires planning – and knowing and understanding the UPR timetable – when the documents for review are to be submitted, when the review takes place etc. All of this information is readily available and accessible. Both UPR Info ([www.upr-info.org/](http://www.upr-info.org/)) and the Office of the High Commissioner for Human Rights ([www.ohchr.org](http://www.ohchr.org)) have useful and accessible guides.

## **The key stages of the process are:**

### ➤ **Before the Review**

Take part in national consultations: Pursuant to Resolution *A/HRC/RES/5/1*, the State under review (SuR) is encouraged to hold a 'broad consultation process at the national level with all relevant stakeholders'. The consultations should be held at least a year before the review and include a broad range of CSOs such as NHRIs, NGOs, HR defenders, local associations, grass roots organisations, trade unions, indigenous peoples, and so forth. Campaigns to promote the UPR and bring the process to the attention of the general public and media can be considerably effective in influencing the SuR. As this process is an international one, it may be coordinated through your Ministry of Foreign Affairs. *You can contact your Ministry of Foreign Affairs to enquire about the national UPR consultation process. National human rights networks/coalitions may be able to provide this information and advice on involvement.*

Submit information on the human rights situation directly to the UN: As noted above (UPR: in general), the review process is dependent upon three sources of reports. NGOs may contribute via the 'other stakeholder' report, following the technical guidelines. Every NGO can draft a five page document and coalitions can submit a 10-page report. *National human rights networks/coalitions may be able to provide this information and advice on involvement.*

Engage/Lobby Other States: As it is only governments that can ask questions and make recommendations through the UPR process, NGOs need to consider what they can do to persuade governments to ask questions and make recommendations. *Some governments have a record for raising human rights concerns through UN processes and in bilateral approaches - these governments are typically from the EU, the Americas, Australia and New Zealand. The governments of the Philippines and Mexico are among those that regularly raise concerns about the rights of migrant workers. If they have embassies in your country you could seek to meet with their Ambassadors to discuss your concerns and to request they raise these issues, ask questions and make recommendations during the UPR process. You could offer to provide a briefing outlining your concerns. The concerns you raise may be about your country – or the country of destination if it is coming up for its UPR. Effective lobbying can be crucial to ensure your issues receive the requisite attention for it to be raised during the interactive dialogue. This lobbying should be done 3-4 months in advance. Lobbying can also be carried out in Geneva, UPR Info organises 'pre-sessions' between CSOs and interested Permanent Missions (Embassies). It is also possible to organize side events at the UN Human Rights Council prior to the actual UPR and even at the actual UPR to provide recent and relevant information to interested government that will take the floor during the UPR.*

**Note on Recommendations:** *Many UPR recommendations have been general and hard to measure implementation against. As recommendations are the most important and tangible outcome of the UPR process it is worth investing time and thought into making recommendations that are simple, specific, achievable, measurable and time-bound. What recommendations will really make a change if implemented? There are guidelines which enable recommendations made to be more effective and easily incorporated into statements made by Recommending States during the interactive dialogue. It is important to draft a one-two page document, where migrant workers association and coalitions draft specific questions and recommendations that will be useful in current campaigns to achieve results.*

**Note on Issues:** *The UPR does take place in a 4.5 year cycle. It allows for long-term planning that allows a comprehensive and creative strategy that balances focus on extensive changes in law, policy, institutions or levels of resourcing as well as short-term immediate interests that allow initiatives to apply moral and political pressure for possible outcomes based on current organized campaigns.*

*Because the UPR process takes place in a 4.5 year cycle, it is not the best place to raise individual cases, or urgent actions that require an immediate response, but rather to focus on changes in law, policy, institutions or levels of resourcing etc.*

➤ **During the Review**

Attend the Review: CSOs may not take the floor, though they may be present in the room during the review.

Hold a Side Event: CSOs have the possibility to hold side events before and during the UPR session. Side events can include a panel of speakers, show a short film etc. Diplomats and NGO representatives can be invited and it is a good opportunity to reach out to others, highlight issues and to build support. For increased effectiveness, the side events should be conducted 1-2 months before the actual review

Organise a Screening of the Review: You don't have to go to Geneva. Each review is 'webcast' and available on the UN website – and it is possible to see officials being asked questions and responding.

➤ **Between the Review and the Report's Adoption at the HRC**

Lobby the SuR to accept the recommendations: Engaging with your government or the government under review may assist in ensuring that as many as possible of the recommendations are accepted, and that this acceptance is expressed in their 'addendum' to the HRC containing clear and detailed responses to each recommendation.

***During the Report's Adoption at the HRC***

Make an Oral Statement: During the adoption of the report of the Working Group at the HRC plenary session (a few months after the review), 20 minutes are allocated to CSOs to make a statement. Of the 20 minutes, ten CSOs are granted two minutes each.

Submit a Written Statement: During the HRC plenary session CSOs may also make written submission concerning the UPR, though have less impact than oral statements.

➤ **Following one UPR and before the next UPR**

Implementation of the UPR recommendations is the aim of the process. NGOs play a vital role in making sure the political will is there to implement specific recommendations. Working through NGO coalitions is likely to be most effective. Seeking a follow-up meeting with government/embassies following the UPR review and then seeking a process for regular dialogue and monitoring may be one approach. The 'Civil Society Follow-up Kit' is useful to refer to.

## UPR and Migrant Workers (MW)

A search of the UPR Info website [www.upr-info.org/database/](http://www.upr-info.org/database/) for recommendations made including the term migrant workers brings up 780 results. Many of these recommendations are repetitive, some are very vague, but some are quite specific. UPR Info also records that there has been some follow-up action in relation to over 50% of all recommendations made.

Country under Review	Examples of Past Recommendations	
Lebanon	Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	
Jordan	Consider ratifying International Labour Organization Convention No. 189 (2011) concerning decent work for domestic workers	
Lebanon	Ratify ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise, and implement it to ensure the right of all workers to freely organize	
Kuwait	<p>Ensure by law that employers leave passports in the possession of the workers themselves</p> <p>Include domestic workers in the new draft labour law for the private sector, and ensure comprehensive protection, including a weekly rest day, timely payment of wages in full and limits to working hours</p>	
Oman	Abolish the kafala system which restricts rights of foreign workers and their access to redress mechanisms and make them vulnerable to various forms of abuse	
UPR Recommendations Concerning Bangladeshi Migrant Workers		Review Cycle
Consider ratifying or acceding to: ICRMW		2009
Consider ratifying or acceding to: ICRMW, CED		2009
Continue its efforts to reduce migration cost and provide greater skills development to aspiring migrant workers		2013
Consider withdrawing its reservations on Articles 76 and 77 of the International Convention on the Protection of the Rights of the All Migrant Workers and Their Families		2013
Continue improving the conditions of children, women, Dalits, indigenous people, refugees and migrants taking into account the special situation and difficulties that those groups have to overcome		2013