

[By ARC International]

UNIVERSAL PERIODIC REVIEW

A Guide for Sexual Orientation and Gender Identity Advocates

In a Nutshell:

. The Universal Periodic Review (UPR) is a mechanism of the United Nations Human Rights Council, which allows scrutiny of the human rights records of all UN States.

. The UPR is a valuable tool for challenging and encouraging States to do more to protect the rights of lesbians, gays, bisexuals, transgender and intersex people.

. NGOs can make submissions with recommendations on how to improve the human rights situation in each State under review.

. Submissions should be no more than 5 pages (for individual submissions) or no more than 10 pages (for joint submissions involving larger coalitions of NGOs), although they can be even shorter (e.g. a few paragraphs is still worthwhile).

. It is best to include a short Executive Summary (even just one paragraph) of key issues and recommendations, and to number your paragraphs and pages.

. Submissions should be sent to uprsubmissions@ohchr.org, preferably with a copy to arc@arc-international.net.

What is the Universal Periodic Review?

. The Universal Periodic Review ("UPR") is a mechanism of the United Nations Human Rights Council. Under the UPR, the human rights records of all 192 United Nations member States will be reviewed by the Council on an ongoing, regular basis.

. The UPR was set up as part of the reform of the UN human rights system. It was designed to respond to criticisms that consideration of countries' human rights records had become politicised and selective, focusing only on certain countries, while allowing more politically influential States to escape scrutiny.

. As a result, the UPR will ensure that the human rights records of all 192 member States will be regularly reviewed on a 4-year cycle. This means that 48 States will be reviewed per year, 16 at each of three sessions annually.

. The UPR is intended to be a cooperative mechanism, designed to assist States in fulfilling their international commitments and improving their human rights situation.

Why does the UPR matter to advocates working on sexual orientation and gender identity issues?

. In countries around the world, human rights violations based on sexual orientation and gender identity are all too common. These include use of the death penalty, criminal sanctions, torture, disappearances, denials of freedom of expression and assembly, denial of refugee or asylum claims, and discrimination in access to health care, employment, education and housing.

. A report prepared for ILGA, the International Lesbian and Gay Association, indicates that over 80 States and territories continue to impose criminal sanctions against consensual same-sex relations, with 7 States maintaining the death penalty: <http://tinyurl.com/kk27dg>

. A further ILGA report also summarises positive developments in a

diverse range of countries, including antidiscrimination legislation, and same-sex relationship recognition: <http://tinyurl.com/3ckd36>.

. The UPR is already proving to be a valuable tool for enhancing international attention and response to human rights violations based on sexual orientation and gender identity. During the UPR sessions recently completed, recommendations raised with States included decriminalization of homosexuality, ending impunity for killings based on sexual orientation and gender identity, ensuring that those who mistreat sexual minorities in detention are punished, including sexual orientation and gender identity in human rights legislation, developing HIV/AIDS programmes for men who have sex with men and improving access to retroviral treatments for vulnerable groups, respecting freedom of expression and association in the context of Pride parades, introducing sensitivity and awareness programmes, including for police and judges, providing LGBTI refugees with asylum if they face persecution in their country of origin, treating same-sex relationships equally, and using the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity as a guide to government policy-making.

. These recommendations were based upon materials submitted by NGOs working at the national level, providing these groups with an important opportunity to hold their governments accountable for their human rights records in an international forum.

. Some States are willing to be supportive, but could benefit from guidance on the steps needed to improve their human rights situation. Other States are indifferent or hostile, in which case increased international scrutiny can draw attention to human rights violations and help to generate international pressure to remedy them.

. The UPR affords a unique opportunity to raise awareness of the many human rights violations experienced on the grounds of sexual orientation and gender identity. It gives us an opportunity to highlight our concerns, strengthen alliances, foster positive developments, build international support, and make concrete recommendations for change.

What's the process? How can we be involved?

Non-governmental organisations (NGOs) have a number of opportunities to be involved throughout the UPR process, which has several steps:

- . **Submission of Materials:** Non-governmental organisations, human rights defenders, academic institutions and others have the opportunity to submit materials concerning countries under review;

- . **OHCHR compilation:** The Office of the High Commissioner for Human Rights will prepare a 10-page report summarising all such materials, as well as a further 10-page summary of relevant information contained in the reports of treaty bodies, UN Special Procedures and other UN documents;

- . **National consultations:** The State under review is encouraged (but not required) to hold national consultations with all relevant stakeholders to assist it in preparing its own report. NGOs can urge the State to hold consultations, invite government representatives to community consultations, and ensure an active dialogue with the State as it prepares its report;

- . **State report:** The State will then submit its own 20-page report, outlining the consultation process, the national constitutional and statutory frameworks, international obligations, human rights achievements, best practices, challenges and constraints, and key national priorities, initiatives and commitments that the State intends to undertake to improve its human rights situation. This report must be submitted in time for circulation at least 6 weeks before the review;

- . **Working Group dialogue:** A Working Group consisting of all 47 member States of the Human Rights Council, and chaired by the Council President, will then conduct a 3-hour interactive dialogue in Geneva with the State concerned. Observer States will also be able to participate; NGOs will be able to attend the dialogue, but not speak. NGOs may, however, organise informal briefings, make materials available, and encourage States on the Working Group to raise particular concerns and make recommendations;

- . **Outcome Report and Recommendations:** Three Rapporteurs, drawn from

three of the five UN geographical groups (including the region of the State under review, if requested) will prepare a report summarising the dialogue, recommendations and conclusions. NGOs have an important opportunity to lobby governments to accept key recommendations prior to adoption of the final report;

. Adoption of Report by Human Rights Council: The final report will be considered by the full plenary of the Human Rights Council, during a 1-hour slot dedicated to this purpose. The State under review will have the opportunity to express its views, and to indicate its position on each recommendation made during the Working Group dialogue. NGOs are also able to make general comments prior to the adoption of the final report;

. Follow-up: The State concerned is responsible for implementing the recommendations, along with other relevant stakeholders. Vigorous NGO participation in follow-up activities - perhaps in partnership with mainstream human rights organisations or national human rights institutions - can help publicise and promote action on the recommendations. At its next review the State will be required to report on its implementation of the recommendations.

Which States are coming up for review?

. A complete schedule of when each of the 192 UN Member States will be reviewed during the 2008-2011 four-year cycle is available on-line at:

<http://www.ohchr.org/EN/HRBodies/UPR/Documents/uprlist.pdf>

How do we prepare a submission?

. Just submit a short memo to UPRsubmissions@ohchr.org (preferably with a copy to arc@arc-international.net to help us with monitoring and follow-up advocacy).

. Submissions need not be long or complicated. The maximum is 5 pages (for individual submissions), or 10 pages (for joint submissions involving larger coalitions of NGOs), but you can send in even a single page or an e-mail of a few paragraphs outlining key concerns. You can also attach more detailed supporting material if desired.

. It is best to include a short Executive Summary of key issues and recommendations, and to number your paragraphs and pages.

. An information note to assist NGOs in developing submissions has been prepared by the Office of the High Commissioner for Human Rights (OHCHR) and is available at:

<http://www.ohchr.org/EN/HRBodies/UPR/Pages/NoteNGO.aspx>

and technical guidelines are available at:

<http://www.ohchr.org/EN/HRBodies/UPR/Pages/TechnicalGuide.aspx>

. NGOs are also encouraged to follow the structure of the Council Guidelines for State reports, available at:

http://ap.ohchr.org/documents/E/HRC/decisions/A_HRC_DEC_6_102.pdf

. All submissions are required to be "credible and reliable", so it's a good idea to be specific in referencing discriminatory laws, document any concerns or attach supporting materials or reports. Avoid personal opinions or allegations that may be challenged as unverifiable. Your submissions and any accompanying materials do not need to be lengthy, so long as they are clear and substantiated.

. The OHCHR has requested that materials be submitted in English, French or Spanish, where possible.

. NGOs do not need accreditation by the UN's Economic and Social Council (sometimes called "ECOSOC status") to make written submissions. Joint NGO submissions are encouraged, and it may strengthen your submission if it is prepared in collaboration with other NGOs, particularly ones with ECOSOC status.

An increasing number of NGOs working on sexual orientation and gender identity issues have recently been successful in obtaining ECOSOC status. For example, ILGA Europe has indicated that it is willing to use its ECOSOC status to help support UPR submissions jointly with other NGOs.

What can be included in our submission?

. The UPR is intended to be a "cooperative" process, highlighting best practices as well as challenges in the fulfilment of States' international human rights obligations. You should certainly identify human rights concerns in your country, but it may also be helpful to note any positive developments.

. For each point that you raise, try to include recommendations for concrete steps that could be taken by the State to improve the human rights situation (e.g., you might recommend that a criminal provision be repealed, that police receive sensitivity training on LGBTI issues, that "sexual orientation" or "gender identity" be included in human rights legislation, that your Human Rights Commission develop educational materials for employers on workplace discrimination, that your government apply the Yogyakarta Principles as a guide to State policy-making etc).

. Note that the Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity provide detailed guidance on States' international human rights obligations, together with specific recommendations on measures States can take to fulfil these obligations.

The Yogyakarta Principles were developed at a meeting of international human rights experts and are available on-line in all 6 UN languages at www.yogyakartaprinciples.org. You may wish to use the Principles as a reference guide in preparing your submission, to assess the extent of your State's compliance with its international obligations and identify recommendations for positive action.

. The Human Rights Council has agreed that a gender perspective should be fully integrated throughout the UPR. It is therefore appropriate to integrate a gender perspective in your submissions, which may also help them receive due consideration.

. Don't forget to include a one-paragraph Executive Summary. This helps the Office of the High Commissioner for Human Rights in ensuring that the key information you want considered is accurately summarised.

Can we submit information confidentially?

. The source of all materials submitted to the UPR process will be identified, and submissions made available on-line. While this is helpful in bringing attention to our issues, you should assume that your submission will be made public, including to representatives of your government.

. In making a submission, you will need to indicate the name of your organisation, which will be public information, but need not identify individual members of your organisation.

. Many advocates working on issues of sexual orientation and gender identity do so at great personal risk. If you would like to submit information, but are unable to do so publicly, the relevant information can be included in a report submitted by a mainstream human rights organisation or international NGO, or by several organisations jointly.

How do we submit the information?

. You may submit information on any of the next 16 countries coming up for review:

. Just e-mail your submission to UPRsubmissions@ohchr.org. Please copy your e-mail to arc@arc-international.net so that we know what information has been submitted and can make use of it in follow-up advocacy. In the e-mail subject line, indicate the name of your NGO and the relevant country.

Further information or questions?

. ARC International:
arc@arc-international.net

. OHCHR Civil Society Unit: civilsocietyunit@ohchr.org

. Additional information and links to relevant materials:

<http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>