

Guyana

Mid-term Implementation Assessment



*Promoting and strengthening
the Universal Periodic Review*
<http://www.upr-info.org>

Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on, and implement their commitments. States should implement the recommendations that they have accepted, and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible, and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 1st March 2013

Follow-up Outcomes

1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/guyana>

We invite the reader to consult that webpage since all recommendations, all stakeholders' reports, as well as the unedited comments can be found at the same internet address.

7 stakeholders' reports were submitted for the UPR. 5 NGOs were contacted. 1 UN agency were contacted. The Permanent Mission to the UN was contacted. No domestic NHRI was found.

4 NGOs responded to our enquiry. No UN agency did respond. The State under Review did not respond to our enquiry either.

The following stakeholders took part in the report:

1. **NGOs:** (1) Global Initiative to End All Corporal Punishment of Children (GIEACPC) (2) Society Against Sexual Orientation Discrimination (SASOD) (3) Tandem Project (TP) (4) University of Oklahoma College of Law (UOCL)

IRI: 10 recommendations are not implemented, 10 recommendations are partially implemented, and 0 recommendation is fully implemented. No answer was received for 114 out of 134 recommendations and voluntary pledges.

2. Feedbacks on recommendations

Indigenous & Minorities

Recommendation n°80: *Consider ratifying ILO Convention No. 169, concerning Indigenous and Tribal Peoples, and take operational steps to implement the United Nations Declaration on the Rights of Indigenous Peoples, including through constitutional and statutory recognition of land and resource rights and effective political participation* (Recommended by Norway)

IRI: *not implemented*

University of Oklahoma College of Law (UOCL) response:

To date, Guyana has not taken any concrete step in proving that truly is considering this issue. In this regard, the Guyana government's has failure to fully implement recommendations [n° 15, 52, 80 and 124].

International Instruments

Recommendation n°15: *Consider ratifying ILO Convention No. 169* (Recommended by Bolivia)

IRI: *not implemented*

+

Recommendation n°52: *Ratify ILO Convention No. 169* (Recommended by Germany)

IRI: *not implemented*

+

Recommendation n°124: *Guyana voluntarily commits to consider this [Ratify ILO Convention No. 169] and report in one year's time to the UNHRC and the ILO.* (Recommended by Guyana)

IRI: *not implemented*

UOCL response:

To date, Guyana has not taken any concrete step in proving that truly is considering this issue. In this regard, the Guyana government's has failure to fully implement recommendations [n° 15, 52, 80 and 124].

SOGI

Recommendation n°14: *Remove legislation which discriminates against individuals on the basis of their sexual orientation or gender identity (Recommended by Australia)*

IRI: *partially implemented*

+

Recommendation n°48: *Repeal all provisions criminalizing sexual activities between consenting adults of the same sex, and reinforce its commitment to end violence and connected human rights violations committed against individuals based on their sexual orientation and identity (Recommended by France)*

IRI: *partially implemented*

+

Recommendation n°61: *Decriminalize homosexuality between consenting adults, and repeal all legal provisions used to discriminate against LGBT persons (Recommended by Italy)*

IRI: *partially implemented*

+

Recommendation n°95: *Repeal the laws which criminalize sexual activity between consenting adults of the same sex (Recommended by Slovenia)*

IRI: *partially implemented*

+

Recommendation n°100: *Reconsider those provisions which criminalize consenting sexual relations between adults of the same sex, and intensify political initiative and legislative measures to combat any act of discrimination, including those committed against gender identity or sexual orientation (Recommended by Spain)*

IRI: *partially implemented*

+

Recommendation n°106: *Repeal the laws that criminalize consensual sexual activities between people of the same sex, and protect lesbian, gay, bisexual and transsexual persons from discrimination and violence (Recommended by Sweden)*

IRI: *partially implemented*

+

Recommendation n°129: *As regards Recommendations 70.47 to 70.53, which refer to decriminalizing consensual same sex relations and discrimination against gay, lesbian, bi-sexual and trans-gender persons, the delegation recalled that Guyana did attempt to include "sexual orientation", in the anti-discrimination clause in the revised constitution but that this was defeated in 2003. Whilst Guyana did not discriminate against persons based on their sexual orientation, it did not deny that interpersonal prejudices existed, based on cultural and religious beliefs. The delegation indicated that Guyana noted these recommendations and voluntarily committed to hold consultations over the next two years and to reflect the outcome of this democratic process in its domestic laws. Recommendations 70.54 and 70.55 were also noted. (Recommended by Guyana)*

IRI: *partially implemented*

+

Recommendation n°131: *Guyana is voluntarily committing to hold consultations on this issue [Repeal the laws that criminalize consensual sexual activities between people of the same sex, and protect lesbian, gay, bisexual and transsexual persons from discrimination and violence] over the next 2 years and based on the outcome of this democratic process, these will be reflected in Guyana's laws. (Recommended by Guyana)*

IRI: *partially implemented*

Society Against Sexual Orientation Discrimination (SASOD) response:

Those consultations are at the stage where the government has set up a special select parliamentary committee to lead those consultations. A chair has been appointed and is tasked with presenting a work-plan to the Speaker of the National Assembly. As far as we are aware, the work-plan has not been submitted as yet.

Recommendation n°73: *Combat discrimination on the basis of sexual orientation, and further promote dialogue in society so that no discrimination is justified on the grounds of culture, religion or tradition (Recommended by Netherlands)*

IRI: *partially implemented*

Tandem Project (TP) response:

The Guyana Defense Force (GDF) coordinated with civilian religious groups to provide personnel with access to religious services. Leaders of all major religious groups conducted prayer services and counseling, although generally only Christian sermons were given on GDF bases. Although no official GDF policy required attendance at religious services, anecdotal evidence from GDF officers suggested that individual commanders required attendance at some religious programs. Membership in a particular religion did not confer any specific advantage or disadvantage; however, general military practice tended to be oriented toward Christians. US. State Dept 2011 IRFR.

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Women & Children

Recommendation n°25: *Eliminate all forms of corporal punishment with a view to abolishing them (Recommended by Brazil)*

IRI: *not implemented*

+

Recommendation n°27: *Forbid corporal punishment of children (Recommended by Brazil)*

IRI: *not implemented*

+

Recommendation n°38: *Expressly prohibit in law corporal punishment in the family, schools and other institutions* (Recommended by Chile)

IRI: *not implemented*

+

Recommendation n°53: *Take all necessary measures to guarantee that the mandatory limits for pre-trial detention are respected in practice, and seek international assistance to address the issue of corporal punishment as well as the one of street children* (Recommended by Germany)

IRI: *not implemented*

+

Recommendation n°93: *Prohibit corporal punishment, especially in schools, in accordance with article 19 of the Convention on the Rights of the Child* (Recommended by Slovenia)

IRI: *partially implemented*

+

Recommendation n°98: *Implement legislative measures to prohibit all forms of corporal punishment against minors* (Recommended by Spain)

IRI: *not implemented*

+

Recommendation n°113: *Adopt a law prohibiting corporal punishment against children in all spheres* (Recommended by Uruguay)

IRI: *not implemented*

GIEACPC response:

Since the review in 2010, legislation has been enacted which repealed the provisions for whipping of boys under 17 as a sentence of the courts and in training schools (the Juvenile Offenders (Amendment) Act 2010). However, males aged 17 and over may still be flogged under judicial sentence and for disciplinary offences in prison. According to information provided by the Government to the Committee on the Elimination of Discrimination Against Women, the Child Care and Development Services Act 2011 explicitly protects children in care from corporal punishment (12 August 2010, CEDAW/C/GUY/7-8, Seven/eighth report to the Committee on the Elimination of Discrimination Against Women, footnote 54): we have been unable to see the full text of this legislation in order to verify this assertion. With regard to schools, the Ministry of Education completed a national consultation on prohibition of corporal punishment which was expected to inform the drafting of new education legislation. At present, however, corporal punishment remains lawful in schools. There have been no moves towards prohibiting corporal punishment in the home.

Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.
4. UN Agencies which sent information for the UPR were contacted.

We posted our requests to the States and NHRI, and sent emails to NGOs and UN Agencies.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

B. Processing recommendations and voluntary pledges

Stakeholders we contact are encouraged to use an Excel sheet we provide which includes all recommendations received and voluntary pledges taken by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.

UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for both recommendations received and voluntary pledges taken at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Disclaimer

The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.

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