

THE UPR

Beyond Reporting

TRANSFORMATIONAL
CHANGES
ON THE GROUND

June 2022



WITH SUPPORT OF THE



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UPR Info is a non-profit, non-governmental organisation. It aims to promote human rights through the Universal Periodic Review. To this end, UPR Info supports the engagement of all stakeholders, such as UN Member States, Members of Parliament, National Human Rights Institutions, civil society organisations, media, and academics in the UPR process.

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Foreword

The Friedrich-Ebert-Stiftung (FES) Geneva Office would like to thank UPR Info for conducting this important research on the impacts of the Universal Periodic Review. We acknowledge the thorough work of the research team in synthesizing the enormous amount of data to present this interesting documentation of case studies. It is the hope of FES that the processes that led to changes in the countries presented in the study will inform both policy makers and practitioners in the 4th UPR cycle and will contribute to the advancement of human rights globally.

Message from Mona M'Bikay, Executive Director of UPR Info

The Universal Periodic Review, rose on the ashes of the Human Rights Commission, has gained recognition by UN members States, UN bodies and civil society since it became operational in 2008. This is a quite unique mechanism that has received such wide acceptance from different actors in the multilateral system. The UPR it is more than 90'000 recommendations over the three cycles, more than 70 issues raised, an increasing participation of recommending States, civil society organisations, national human rights institutions, parliamentarians, and the judiciary along the UPR process. The UPR is indeed more than a one-time event where light is put every four and half year on the human rights situation of countries being reviewed. The mechanism offers a space for dialogue and cooperation amongst UN members States and between the government and its constituents. The consultations that are leading up to the interactive dialogue and that follow to define the way forward offers the opportunity to debate about the human rights issues and define collectively ways to improve the situation on the ground.

As we celebrate this month in June 2022 the 50th session of the Human Rights Council, we can rejoice on the accomplishments of the mechanism: creating a human rights culture, fostering transparency and accountability, strengthening national institutions, raising the voice of people living in vulnerable situation to name a few of its achievements.

At the same time, as we look to the 4th UPR cycle, it is time to reflect on good practices that can be consolidated but also on areas of improvement. How can we go beyond the adoption of the legal framework and the establishment of institutions which were critical to set up a framework for a better protection of human rights? How can we induce systemic changes and create an inclusive society based on rule of law?

This publication will provide you with case studies on the impacts of the UPR and considerations on elements that helped to build a momentum on the UPR recommendations to address human rights concerns through steps taken at different levels and by various actors. It is what is required to advance human rights.

We hope that this study will inspire you to take actions to improve the human rights situation for all.

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1

Introduction

The Universal Periodic Review (hereinafter, "UPR") was created in 2006 by the newly established Human Rights Council¹. From its inception, the UPR was viewed as a tool to facilitate the improvement of the human rights situation on the ground and promote the sharing of best practices among States and other stakeholders². In the intervening years, the UPR has solidified as an innovative and universal mechanism that allows all States to be evaluated on the fulfilment of their international human rights obligations, based on key information provided by a variety of stakeholders.

There are many benefits to the UPR as a tool for change. It is a truly democratic mechanism as it allows for all countries to participate and undergo review, no matter their economic, social or cultural situation. The UPR also provides for a comprehensive evaluation of a State, as all human rights obligations are considered during their assessment. This paints a clear picture of how seriously each State takes its international commitments. Furthermore, despite being held in Geneva, the UPR succeeds at being context-based as it compiles national information provided not only by the States, but also by other local actors. In addition, it is the only UN mechanism that provides an official avenue for civil society organisations to actively engage in the process, giving it a participatory nature that is not found in other mechanisms. Finally, the cyclical nature of the UPR allows for constant assessment of the progress that is being made by States as well as evaluation of emerging issues that need to be prioritized.

Up to and including the 40th session, 193 States were reviewed in the third cycle of the UPR. In total, 45,053 recommendations were handed out to States in the third cycle - an increase of 111% on the first cycle of the UPR and 24% on the second cycle. Some States have submitted a mid-term report for the first time, such as Serbia, Ukraine or Ecuador, and others are in the process of finalising their own works. CSOs also appeared to be considerably more engaged during the third cycle. It is possible to observe a significant increase both in the number of stakeholders and mid-term reports submitted by CSO from some countries. For example, in the second cycle, Chilean CSOs submitted 27 reports, compared to 67 reports submitted in the third cycle. Bahraini CSOs, as another example, submitted 50 reports for the third UPR cycle, compared to the 27 reports submitted in the second cycle.

NHRI are also increasingly participating, with the number of A-status NHRIs submitting reports increasing from 48 and 58 in the first and second cycles, respectively, to 68 in the third cycle. It is therefore clear that CSOs and NHRIs are increasingly acknowledging the usefulness of the UPR mechanism to make real change.

¹ United Nations General Assembly. Resolution A/RES/60/251. 3 April 2006.

² Human Rights Council. 5/1 Institution building of the United Nations Human Rights Council. Resolution A/HRC/Res/5/1. 18 June 2007. Art. 4.a and 4.d.

During its third cycle, the UPR has had to adapt in order to deal with the COVID-19 pandemic. In particular, sessions began to include a combination of in-person and remote participation, in line with procedures used by the HRC after March 2020. This also meant that there was no public gallery and interested parties were exclusively able to watch webcasts of the interactive dialogues. The pandemic also had a noticeable effect in terms of the recommendations given to States. In the two sessions following the outbreak of COVID-19, 43 recommendations were given that specifically referenced the pandemic, and 41 of these recommendations were supported by States. This highlights the ability of the UPR to be a dynamic and responsive mechanism which can deal with emerging issues.

A further example of such an emerging topic is that of transgender rights, which – as a standalone issue – saw an increase of 1,000% (as a proportion of total recommendations) in the third cycle compared to the first. Business and human rights have also grown as an issue over the course of the UPR's existence, and this is evidenced by recommendations on the topic increasing by 650% between the first and third cycles.

All of these examples show the capacity of the UPR to respond to the most urgent and unpredictable situations.

From the moment it was created, the UPR has succeeded at many levels³. This study demonstrates this fact by focussing on a set of good practices developed by States, CSOs and other stakeholders who have used UPR recommendations to achieve concrete and transformative progress. These case studies will provide inspiration, insight, and ideas into what worked and why. They are also proof that the UPR can be used in different ways to be a useful tool that brings about improvement to the human rights situations in countries around the globe.

³ See for instance: United Nations Development Program (UNDP). UN Good practices. How the universal periodic review process supports sustainable development. February 2022; UPR Info. Good Practices from Federal States in the UPR process. 2021; KOTHARI, Miloon. Study on emerging Good Practices from the Universal Periodic Review. June 2021; UPR Info. The Butterfly Effect. Spreading good practices of UPR implementation. 2016.

2

Methodology

This research covers good practices developed by States that were reviewed in the third cycle of the UPR until its 39th session. The methodological approach of this report has been quantitative and qualitative. The strategy of gathering information consisted of two main channels: (1) Desk research, and (2) Development of semi-structured interviews with key actors.

1. Desk Research

This stage of the research involved a comprehensive review, analysis and systematisation of different sources of information such as UPR Working Group reports, States' national and mid-term reports, CSOs submissions and mid-term reports, NHRI submissions, UN Treaty Bodies concluding observations reports together with other general studies carried out by UN Special Procedures. In addition, documents, factsheets, research studies and other reports from regional human rights systems such as the Inter-American, European and African systems were also incorporated in the general review. National legislation, public policies, jurisprudence, and CSOs advocacy documents were also reviewed for the purpose of conducting this research.

The information gathered was initially used to narrow down the scope of the research to an initial shortlist of 30 States in relation to which further desk research was conducted. The selection of States was based on factors such as the number of good practices preliminarily identified, the interest in ensuring a geographical balance among the States under study, the availability of and accessibility to further information, and the existence of a follow-up mechanism within the State for UPR recommendations.

As a result of the desk research a total of 131 preliminary examples were found which will be available to readers for further consultation at UPR Info's website.



UPR Info Publications

Repository of cases of transformational changes on the ground

2. Development of semi-structured interviews with key actors

Semi-structured interviews were implemented with the aim of collecting first-hand information from actors who are directly involved in the UPR mechanism, and validating preliminary findings from the desk research..

Input was received from representatives from national and international CSOs, NHRIs and governments via either questionnaires or virtual interviews. With both of these, questions were adapted depending on the type of actor. Questions focussed on what States had learned from participating in the UPR, the degree to which states implemented recommendations and which recommendations were prioritised by the State. Interviewees were also asked to identify any examples of good practice by states following third cycle UPR recommendations.

This mixture of desk research and input from key actors allowed the final list of 17 case studies to be drawn up. Many examples that demonstrate the UPR's capacity to cause concrete human rights changes on the ground were found, but those on the report are the most innovative or well documented and could help to guide the actions of other stakeholders interacting with the UPR in their own countries.

It should be noted that the analysis did not involve a comprehensive assessment of the general human rights situation or policies implemented by States in other areas of influence. Therefore, any conclusion included in this report should not be expanded to other practices of the State, beyond what is expressly mentioned in this document. Equally, the omission from this report of certain States who are also investing efforts in advancing human rights changes at the national level must not be interpreted as reflecting negatively on those States. The report merely highlights specific good practices that have been implemented in the context of UPR recommendations.

3

Beyond reporting: transformational changes on the ground over the course of the third UPR cycle implementation phase

3.1 The third cycle of the UPR: a new opportunity to foster human rights

How to measure the achievements of the UPR?

The complexity of the challenges normally faced by the UPR are directly proportional to the ambitious goals it pursues. Improving the situation of human rights on the field is not an easy task, nor a linear process. While the mechanism offers a number of virtues that may contribute to lay the foundations for progress to be achieved, measuring its concrete impact in peoples' lives involves major difficulties.

Trying to define what sort of steps can be qualified as a "positive change" in light of the UPR, seems to be a conundrum as all the possible conclusions that might arise from this theoretical exercise depend on a broad set of factors. By being a human rights tool with a universal scope, the UPR propose recommendations to address problems of a very diverse nature, given, for example, the different root causes that may lie at their basis, the differentiated impact these issues can cause on certain populations, the urgency to provide effective responses to these problems and the possible lack of States' means and resources to properly react on time, etc. In other words, what might be perceived as a significant progress for specific States and societies under certain circumstances, may not necessarily represent a step forward in other settings.

In addition to this, mechanisms to follow-up the either small or substantial progress achieved by States concerning their internal human rights situations are not widely available and/or accessible. Some States have not developed an official structure to monitor the implementation of recommendations that they received not exclusively from the UPR, but also from other international and regional human rights organisations. Where such a platform or unit exists, States face challenges in filling it with accurate and up-to-date information, as usually the implementation of recommendations involve actions at different institutional levels and articulating the work of the intervening actors so the progress can be clearly displayed in a database can constitute a challenge. While CSOs can contribute to this task, limitations in terms of human and financial resources, or existing barriers to accessing public information held by the State can hinder this possibility.

Even if the progress is evident, and information about its scope is easily accessible, difficulties to tie the link between such a progress and the recommendations received by States at the international level – more specifically in the context of the UPR – are significant. Unlike other mechanisms of the UN system, the UPR does not focus solely on supervising the implementation of a particular international convention, nor it has a thematic mandate, rather the process aims at assessing the actions set in place by States to fulfil the entirety of their international human rights obligations. With such a general scope of action it is challenging to measure to what extent measures adopted by States have taken place in direct response to UPR recommendations, instead of being a consequence of other national or international processes playing a role.

These concerns should serve as an invitation to assess the UPR, 13 years after its creation, with circumspection. As will be shown in this report, in spite of these important caveats, it is possible to affirm that the UPR is a useful tool to activate interesting processes that can lead to meaningful transformations for the benefit of individuals. The mechanism congregates a wide set of actors to join efforts and collectively move towards progress. The interaction of the many actions that operate around the UPR with other processes simultaneously occurring within States can contribute to great improvements on the ground.

An overview of the “good practices” described in this study

In light of what has been mentioned until this point, it is clear that this study does not aim at providing a concrete definition of what constitutes a “good practice” in the context of the UPR. Instead, the goal of this research is to present a myriad of case studies where the UPR has gone beyond the reporting process that is activated for States and other stakeholders every four years and a half, to transform itself into a meaningful mechanism that unfolds its positive effects on an ongoing basis.

In consequence, good practices in this report can take different forms, and are not exclusively understood as the full implementation of the specific measure that a State was suggested to adopt under a UPR recommendation. Rather, special attention is given to the ripple effects that the UPR recommendations might have had for societies’ benefit.

With this point of departure, this research presents practices that have been qualified as good because, for instance, they fostered collaboration and alliances among different stakeholders such as NHRIs, CSOs, Diplomats and States’ officials; allowed for the creation of platforms for the empowerment of vulnerable populations such as the youth, refugees, transgender people or women; contributed to raise awareness on the necessity to address long-term demands from societies at the national level; paved the way for the enactment of transformative legislation in favour of individuals such migrant workers; provided space to tackle development issues through the adoption of meaningful public policies on health or education; allowed for concrete strategies to be developed to attend historical problems which with societies deal such as discrimination and racism; helped to lay the ground for the ratification of international human rights treaties with a wide effect, etc.

In addition to providing guidance and inspiration to different stakeholders on how to creatively engage with the UPR, the examples presented in this section should serve as an excuse to continue reflecting on the different paths that can be followed to promote transformative changes for the guarantee of human rights.

3.2 Introducing the achievements of the third UPR cycle: Presentation of concrete case-studies on good practices

Argentina: Joining a social movement for women’s rights



Women’s rights are perhaps one of the topics that has received the most attention during the UPR. Around 18,000 recommendations have been issued on this regard throughout the UPR cycles⁴. Of these, States under review have supported more than 86% of the UPR recommendations. Additionally, these recommendations have been drafted following a much-needed intersectional approach, meaning that the rights of girls (44%), women with disabilities (5%), women who are also migrants or refugees (2%), or those who belong to indigenous peoples (1.8%) have been permanently addressed by States and other stakeholders participating in the mechanism.

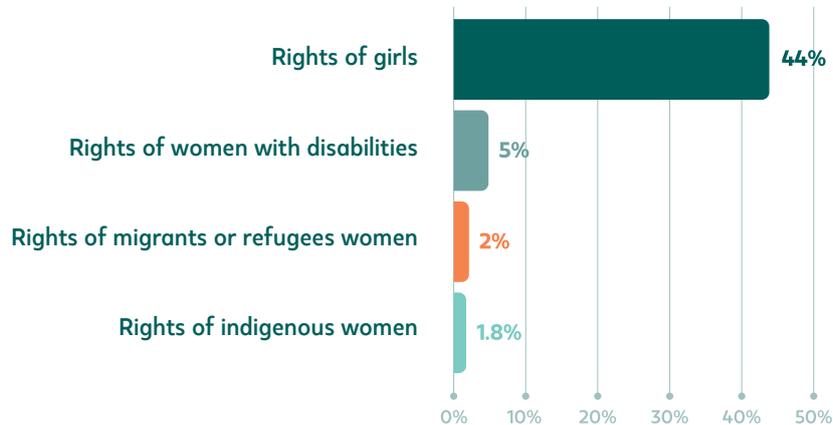
Graphic nº 1: Number of recommendations issued on women’s rights from the first to the third UPR cycles



Source: UPR Info’s Database

⁴ In the first round of the UPR, States made 3,712 recommendations on women’s rights. In the second cycle, this number increased to a total of 7,006. Until the 39th session of the third cycle, 7,232 recommendations have been issued in this regard.

Graphic nº 2: Distribution of UPR recommendations on women's rights from an intersectional approach from the first to the third UPR cycles



Source: UPR Info's Database

Argentina is one of the countries in the Latin-American region that has undertaken major steps to promote the agenda of women's rights in recent years⁵. In the context of the UPR, the State has been active not only by supporting the recommendations received in this regard, but by recommending its peers under review to pursue their own national actions to move this agenda forward. Most of the recommendations supported by Argentina during the third UPR cycle were linked to the necessity of strengthening the actions and legislation to combat gender-based violence in its different manifestations (45%), and to ensure that women can access free and safe health services for the termination of pregnancy if decided (16%).

In particular, the fight to access legal, free and safe abortion has been one of special relevance and symbolism for social movements working on women's rights for decades in Argentina, where the applicable legal framework, dated 1921, only authorised women to access abortion without facing criminal responsibility in cases of sexual assault or when a pregnancy endangered their lives or health. Activists have constantly organised themselves to build social networks that allow them to increase their knowledge and strengthen the impact of their actions at the national and international levels. In 2005, for instance, the "National Campaign for the Right to Legal, Safe, and Free Abortion" was launched, establishing a federal alliance integrated by hundreds of organisations, labour unions, feminists and LGBTIQ+ leaders, students, educators, and health workers, among many others, pushing for this legal change⁶.

These demands were brought to the UPR from the very first moment that Argentina faced the review. In the first cycle, CSOs reported to the HRC the existing link between maternal deaths in the country and the different barriers women faced to obtain contraceptives and access legal abortion⁷. However, no recommendation was made in this regard during the UPR first round. The situation

5 For instance, In December 2018, the country published the "Plan de Igualdad de Oportunidades y Derechos (PIOD) 2018-2020" granting equal access to opportunities to men and women. In January 2019, Argentina enacted the law No. 27499 "Ley Micaela de Capacitación Obligatoria en Género para todas las personas que integran los tres poderes del Estado" which establishes mandatory training in gender and gender-based violence for public officials working in the Legislative, Executive and Judicial branches. In May 2019, the State enacted the law No. 27.501, which includes street harassment as a form of violence against women in public spaces.

6 Campaña Nacional por el Derecho al Aborto Legal, Seguro y Gratuito. Available at: <https://perio.unlp.edu.ar/catedras/planipoliticadecom/wp-content/uploads/sites/162/2020/09/Campana-Nacional-por-el-Derecho-al-Aborto-Legal-Seguro-y-Gratuito.pdf>

7 OHCHR. Summary prepared in accordance with paragraph 15(C) of the Annex to Human Rights Council Resolution 5/1. Argentina. 6 March 2008. A/HRC/WG.6/1/ARG/3. Parr. 3, 31 and 32.

changed significantly for the second⁸ and third⁹ cycles, where many more organisations engaged with the mechanism and raised awareness on the urgency of adopting measures on this matter through individual and collective submissions. As an outcome of this exercise, Argentina received five recommendations in this regard during the second round of the review, and eight recommendations during the third round.

Although some of these recommendations were framed in a broad manner, there were others whose level of specificity was helpful in clearly setting the scope of the commitment the State was assuming at the international level by supporting them. These recommendations suggested the State adopt a comprehensive approach to this issue by enacting legislation and producing public policies that would allow women to access sexuality education, safe and legal abortion, as well as post abortion care, in all the regions of the country.

In December 2020, following a legislative initiative from the Argentinian Government, the Senate approved the Law No. 27,610 “Access to the Voluntary Interruption of Pregnancy” which, according to its article 2 grants women and people with other gender identities with the capacity to bear children the right to access private and public health services to have an abortion in the first 14 weeks of pregnancy¹⁰. The IVE law (for its acronym in Spanish) establishes that health workers must protect patients’ dignity, ensure their confidentiality, and respect their autonomy and will. Similarly, it indicates that health workers can bear criminal and administrative responsibility if they delay, obstruct or refuse to perform a legal abortion¹¹. The IVE law entered into force in January 2021, in what has been qualified as a major victory for the whole feminist movement in the Latin-American region¹².

As recommended in the third UPR cycle, this legislative framework has been complemented with the design and implementation of a public policy that regulates the operative aspects of the IVE law. In May 2021, the “Protocol for the integral attention of people with the right to voluntary and legal termination of pregnancy”¹³ was adopted with the twofold objective of guaranteeing the sexual and reproductive rights of girls, women and other people with capacity to gestate, and providing support and guiding principles to the institutions who are involved in the implementation of the public policy. According to the Argentinian Ministry of Health, within a one-year period, the public system was able to perform at least 32,758 abortions in safe conditions, and the number of public health premises where these medical interventions can be accessed have increased by 30% during the same period¹⁴.

These achievements have primarily been shaped by strong social rights movements that have advocated these issues for years, as well as important political processes happening simultaneously. Nevertheless, the UPR recommendations and other decisions arising from regional and universal human rights bodies have also played a significant role by favouring these endeavours. In this way, the UPR constitutes an important asset that can further advance landmark changes to the benefit of individuals.

8 For more on this please refer to reports submitted by: Amnesty International; Fundación para la salud adolescente; Equipo Latinoamericano de Justicia y Género; and, Joint Submissions 1 and 4. Available at: <https://www.ohchr.org/en/hr-bodies/upr/upr-argentina-stakeholder-info-s14>

9 For more on this please refer to reports submitted by: Amnesty International; CEPROFA; Human Rights Watch; and Joint Submissions 2 and 20. Available at: <https://www.ohchr.org/en/hr-bodies/upr/upr-argentina-stakeholders-info-s28>

10 Boletín Oficial República Argentina- Acceso a la Interrupción Voluntaria del Embarazo- Ley 27610 (2021). Available at: <https://reproductiverights.org/maps/provision/argentinas-abortion-provisions/>

11 Ibid.

12 Daniel Politi and Eduardo Londoño. Argentina Legalizes Abortion, a Milestone in a Conservative Region. Available at: <https://www.nytimes.com/2020/12/30/world/americas/argentina-legalizes-abortion.html>

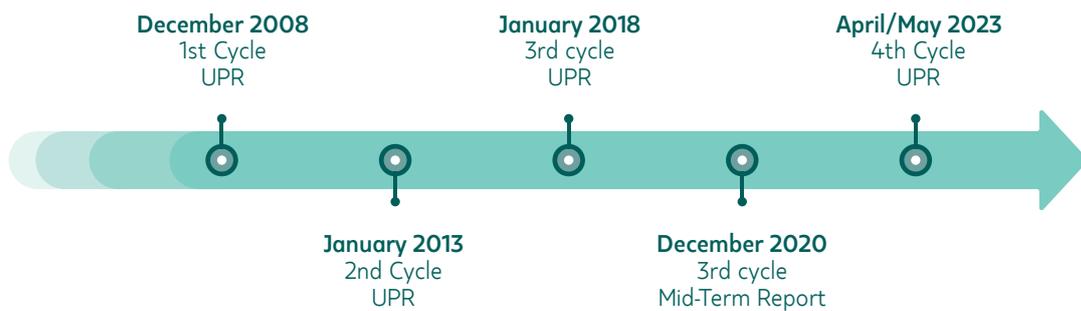
13 Protocolo para la atención integral de las personas con derecho a la interrupción voluntaria y legal del embarazo. Actualización 2021. Available at: <https://www.argentina.gob.ar/sites/default/files/infoleg/res1535.pdf>

14 UNIDIVERSIDAD. A un año de la IVE: aumentaron el 30% los centros de salud públicos que garantizan el derecho. Available at: <https://www.universidad.com.ar/a-un-ano-de-la-ive-aumentaron-un-30-los-centros-de-salud-publicos-que-garantizan-el-derecho>

The success proven in the case study of Argentina can be attributed to:

- *The cohesive work of strong social rights movements that have advocated for years for legal and safe abortions, which have resorted to the UPR to echo their demands at the national level;*
- *The complementarity of the UPR recommendations with recommendations from regional and universal human rights bodies which have been monitoring and providing advice on these issues over the years.*

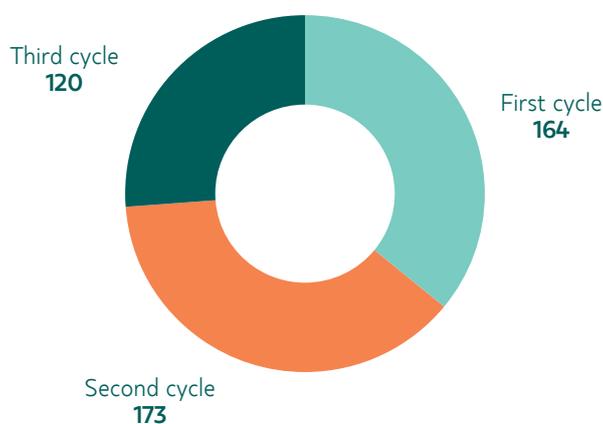
Botswana: A perspective shift in the new strategy framework (for HIV/AIDS)



Measures around the protection of the right to health have permanently been part of the UPR recommendations¹⁵. Within these measures, the adoption of steps to combat HIV/AIDS have also been integrated in the agenda of recommending States in the UPR, who have stressed out the need to continue to raise awareness on this problem and tackle its causes from a gender-focused and non-discriminatory approach. Nevertheless, by looking at UPR statistics, it is possible to observe that recommendations in this regard have been less prominent when compared with other topics such as sexual and reproductive issues in relation to the right to health. The number of recommendations arising concerning the fight against HIV/AIDS has fluctuated from 120 to 173 throughout the three UPR cycles, without necessarily following an increasing pattern.

¹⁵ In the first UPR cycle, 520 recommendations were made by States. This number increased to 1332 in the second cycle, and, until the 39th session of the third UPR cycle, States have formulated 1753 recommendations in this regard.

Graphic n° 3: Number of recommendations issued on the fight against HIV/AIDS from the first to the third UPR cycle



Source: UPR Info's Database

The State of Botswana has always been among the countries receiving most of these UPR recommendations. In fact, in the third UPR cycle, Botswana topped this list, followed by Equatorial Guinea and South Africa. This prioritisation is linked to the endemic nature of this problem within the country, which is ranked among the States most affected by HIV and AIDS worldwide¹⁶. By the end of 2018, when the country was reviewed for the third time in the UPR, the HIV prevalence rates among adults was 20.29%, affecting in a disproportionate way specific population such as female sex workers¹⁷.

The recommendations made to the country during the third UPR round have substantially improved when compared to previous cycles, providing a clearer blueprint to the State on how to move forward on this matter. Both stakeholders¹⁸ and recommending States have had a better understanding of the situation of HIV and AIDS in Botswana, suggesting for the State to adopt an intersectional approach to this problem and to include vulnerable populations such as the youth¹⁹, women²⁰ and non-Botswana nationals²¹ into the scope of its strategies. The State supported seven out of the eight UPR recommendations received in this regard, and even though it decided to note the only recommendation that brought to the table the importance of considering non-Botswana nationals into the country's actions, remarkable progress has been achieved in relation to this.

In 2019, the State took major steps concerning these recommendations. In the month of June, Botswana launched the III National Strategic Framework on HIV and AIDS for the period 2019-2023, and the Multi-Sectoral Strategy for the Prevention and Control of Non-Communicable Diseases strategy which is meant to be in place until the end of 2023. The health strategies came as a result of multi-stakeholder process undertaken by the State, and the Government has committed to conducting periodic reviews where all relevant actors can engage²².

¹⁶ UNICEF Botswana Budget Brief HIV/AIDS. Fiscal Year 2019/2020. Available at: <https://www.unicef.org/esa/media/6346/file/UNICEF-Botswana-2019-HIV-AIDS-Budget-Brief.pdf>

¹⁷ The Global Fund. National Strategic Plan to Reduce Human Rights – Related Barriers to HIV and TB Services: Botswana 2020-2025. P. 15. Available at: https://www.theglobalfund.org/media/10418/crg_humanrightsbswana2020-2025_plan_en.pdf

¹⁸ See, for instance, Joint submission 2 to the UPR working group.

¹⁹ See for instance the recommendation made by Indonesia: Further strengthen its national programme to reduce HIV prevalence, especially among young people.

²⁰ See for instance the recommendation made by India: Further improve the health-care infrastructure in Botswana and pay special attention to awareness-raising programmes among women and adolescent girls in rural areas for addressing the challenge of HIV/AIDS.

²¹ See for instance the recommendation made by France: Widen the programmes to combat HIV for non-Botswana nationals.

²² Republic of Botswana. Mid-term progress report on the implementation of agreed recommendations from Botswana's 3rd cycle review under the universal periodic review (UPR) mechanism of the United Nations Human Rights Council. Geneva, December 2020. P. 26.

These strategies have been praised by different organisations²³ as they constitute a shift in the response that the State had been giving to HIV, by resorting to concrete evidence to prioritise specific geographic areas and populations in the implementation of their actions²⁴. In addition, the strategies focus on eradicating legal, human rights and gender-based barriers that impede vulnerable people to access health services, and their general goals align to the commitment of the State to attain SDGs²⁵. In light of these measures, CSOs have concluded that the State have fully implemented the UPR recommendations received and supported in the third cycle in relation to this public health issue²⁶.

In parallel, the Government decided in 2019 to extend access to free HIV treatment to non-Botswana nationals. This decision would benefit an estimated 30,000 foreign residents who live with HIV but face economic barriers to afford medicines or receive medical assistance²⁷. For this purpose, financial assistance would have been granted by international cooperation²⁸.

This example highlights the importance of drafting realistic and specific UPR recommendations regardless of the thematic issue that could be under evaluation. As this case-study proves, States may be open to working with recommendations that they decided to note during the review based on different reasons, which demonstrates the value of also monitoring these recommendations. By engaging with the mechanism in a strategic manner, States and other stakeholders have the capacity to unleash meaningful changes that contribute to improving the quality of people's lives.

The progress seen in Botswana stresses out the importance of:

- *Encouraging UPR recommendations that are realistic and specific in order to direct the State towards meaningful actions;*
- *Monitoring the implementation of recommendations that have been noted by the State;*
- *Employing an intersectional approach that comprehends the needs of a diverse range of groups when adopting public policies.*

23 UNAIDS. Botswana enters a new phase of AIDS response. 20 June 2019. Available at: https://www.unaids.org/en/resources/presscentre/featurestories/2019/june/20190620_botswana

24 The Global Fund. National Strategic Plan to Reduce Human Rights – Related Barriers to HIV and TB Services: Botswana 2020-2025. P. 15. Available at: https://www.theglobalfund.org/media/10418/crg_humanrightsbotswana2020-2025_plan_en.pdf

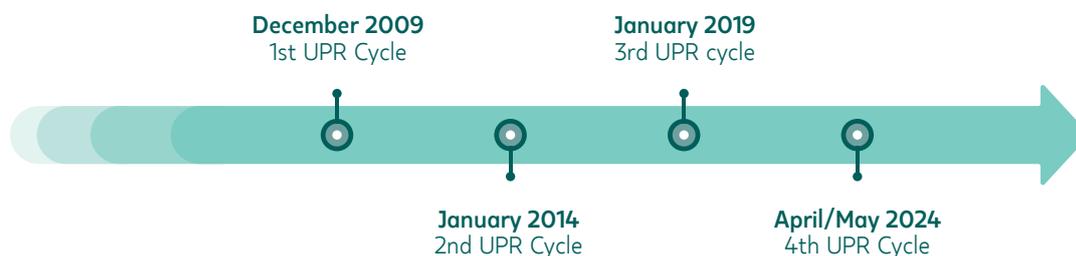
25 Ibid.

26 UPR NGO Working Group. Botswana. Universal Periodic Review. Civil Society Mid-Term Review Stakeholder Report. Third UPR Cycle. 31 August 2020. P. 53. This report was elaborated by DITSHWANELO – The Botswana Centre for Human Rights, and endorsed by other 37 organisations.

27 Republic of Botswana. Mid-term progress report on the implementation of agreed recommendations from Botswana's 3rd cycle review under the universal periodic review (UPR) mechanism of the United Nations Human Rights Council. Geneva, December 2020. P. 31.

28 Botswana Country Operational Plan 2019 Strategic Direction Summary. May 10, 2019. Available at: https://www.state.gov/wp-content/uploads/2019/09/Botswana_COP19-Strategic-Directional-Summary_public.pdf

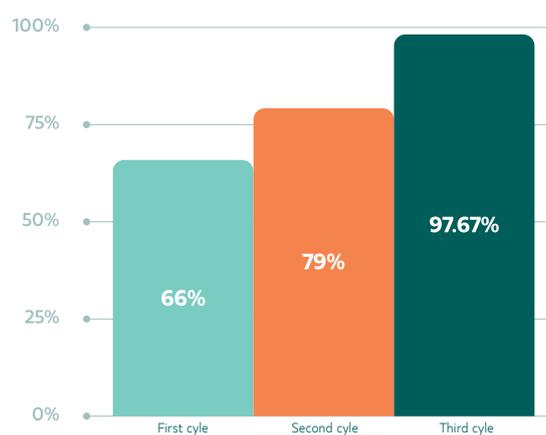
Cambodia: Laying the building blocks of a NHRI for the promotion of human rights



Throughout the years, National Human Rights Institutions (hereinafter “NHRI”) have proven to play a pivotal role in relation to the UPR. NHRIs can contribute to the dynamic of the mechanism at different levels, therefore, its engagement with the process is constantly encouraged²⁹. For instance, NHRIs can assist their States when conducting national consultations to gather information to prepare their national UPR reports, while at the same time, they can work on the elaboration and submission of their own independent reports which will be integrated into the stakeholders’ compilation drafted by the OHCHR³⁰.

Statistics can help to put in perspective the degree of involvement that NHRIs have been having with the UPR. Just in the first cycle of the mechanism, a total of 48 NHRIs with A-status according to the Paris Principles³¹ submitted reports for the consideration of the OHCHR. This number increased to 58 in the second cycle, and at the time of writing this report, 84 have made submissions to the UPR. Read from a different perspective, this information also suggests that at least 66% of the total NHRIs with A-status worldwide submitted an independent report to the first UPR cycle, 79% did so in the second cycle³², and 97.67%³³ completed their submissions until the 38th session of the third cycle.

Graphic n° 4: Percentage of NHRIs participating in the mechanism from the first to the third UPR cycles



Source: Glušac Luka. “Universal Periodic Review and Policy Change: The case of National Human Rights Institutions”. In *Journal of Human Rights Practice*, 2022, 1-20. P. 7; OHCHR website and OHCHR and GANHRI. Chart of the Status of National Institutions. December 2021.

29 OHCHR. Universal Periodic Review: Tips for engagement at country level for national human rights institutions and civil society. Available at: https://www.ohchr.org/sites/default/files/Documents/HRBodies/UPR/Tips_21Sept2020.pdf

30 Glušac Luka. “Universal Periodic Review and Policy Change: The Case of National Human Rights Institutions”. in *Journal of Human Rights Practice*, 2022, 1–20. P. 6.

31 According to principles 1 and 2 of the Paris Principles, when an NHRI demonstrates its independence and pluralism it will be assigned the highest status, this means that the institution will be recognized as a centre of protection and promotion of human rights and regulated by national laws. It will also have the following obligations: to ensure the harmonisation of national legislation with international instruments, promote the ratification and implementation of treaties, make recommendations and reports on the human rights situation, support UN agencies, help in the State reports, and collaborate in human rights education. For more information please visit: <https://www.ohchr.org/en/instruments-mechanisms/instruments/principles-relating-status-national-institutions-paris>.

32 Glušac Luka. “Universal Periodic Review and Policy Change: The Case of National Human Rights Institutions”. in *Journal of Human Rights Practice*, 2022, 1–20. P. 7.

33 This calculation is based on the information available at the OHCHR website concerning the NHRIs that have submitted reports to the UPR 3rd cycle, and the total number of NHRIs with A status accredited by the Global Alliance of National Human Rights Institutions - GANHRI until December 2021: https://ganhri.org/wp-content/uploads/2022/02/StatusAccreditationChartNHRIs_28.12.21.pdf.

Recommending States have also been constantly advocating for the establishment of new NHRIs in their peer countries, or for the strengthening of these institutions when they already existed in the territory of the States under Review. For example, during the third cycle of the UPR a total of 1,188 recommendations were made in this regard, out of which 1,001 (84.25%) were supported by the States. This data reflects the solid commitment of the international community towards the work and activities of NHRIs, being these states-based bodies that have the potential to promote and protect human rights at the national level.

Cambodia is one of the countries that have received plenty of recommendations to move forward in this direction³⁴. This has not only been a suggestion formulated by different States throughout the cycles of the UPR, but a permanent demand from CSOs that were able to participate in the mechanism emphasising the need to create an independent and well-resourced NHRI that adheres to the Paris Principles³⁵. In general, CSOs in Cambodia have been very active in relation to the UPR³⁶. Their contributions to the work of the State in implementing recommendations is then essential.

The follow-up phase of the third UPR cycle has brought major steps in this regard. The OHCHR office in Cambodia has been working closely with the Cambodian Human Rights Committee (hereinafter "CHRC") on drafting a law that would set the ground for the establishment of a Cambodian National Human Rights Institution. According to relevant research conducted by different UN bodies, the recommendations received by the State during the UPR served as a "strong push" for this to happen³⁷.

On 31 May 2021, the CHCR completed the first draft of the law on the establishment of the Cambodian NHRI, which contains 32 articles and eight chapters³⁸. Currently, the CHCR is working on gathering more feedback on the content of the draft law from different stakeholders before presenting a final version of the law. For instance, in October 2021, the CHCR, with support from the OHCHR office in Cambodia, conducted a virtual workshop where it was able to bring together a number of experts from countries across the region such as Malaysia and the Philippines, to share their own experiences on establishing independent NHRIs³⁹. During the meeting, the CHCR informed that an online platform had been set up in order to provide CSOs and other members of the public with a tool to share their comments and views on the content of the draft law. The CHCR social media profiles on networks such as Facebook and Telegram were also made available to citizens who wanted to submit their views regarding this process⁴⁰.

In parallel, it was made public that certain consultations had been taking place with CSOs, political parties and legislative bodies concerning the draft law⁴¹. Earlier, the CHCR and the OHCHR office in Cambodia, had announced that they were planning to conduct around 60 consultation meetings with a broad variety of stakeholders, in an effort to ensure that the draft law would receive input from different perspectives and that its final version would end up being acceptable to all parties⁴².

34 During the first UPR cycle, Cambodia received three recommendations in this regard. This number increased to 11 in the second cycle. Finally, for the third cycle, the country was recommended to step up its efforts concerning this measure through ten recommendations.

35 See for instance CSO Joint Submission No. 5 at: https://www.upr-info.org/sites/default/files/documents/2018-12/js5_upr32_khm_e_main.pdf

36 See for instance: UPR Info. Cambodian CSOs support UPR implementation. March 11th, 2019. <https://www.upr-info.org/en/news/cambodian-csos-support-upr-implementation>

37 UNDP, OHCHR, UNDCO. UN good practices. How the universal periodic review process supports sustainable development. February 22. P. 14.

38 OHCHR Cambodia. Bridging the gap: A National Human Rights Institution is closer to being enshrined in Cambodian law after 20 years of discussion. October 28, 2021. <https://cambodia.ohchr.org/en/news/bridging-gap-national-human-rights-institution-closer-being-enshrined-cambodian-law-after-20-0>

39 OHCHR Cambodia. Bridging the gap: A National Human Rights Institution is closer to being enshrined in Cambodian law after 20 years of discussion. October 28, 2021. <https://cambodia.ohchr.org/en/news/bridging-gap-national-human-rights-institution-closer-being-enshrined-cambodian-law-after-20-0>

40 The Phnom Penh Post. CHRC to hold 60 meetings on the national rights commission. July 12, 2021. <https://www.phnompenhpost.com/national-politics/chrc-hold-60-meetings-national-rights-commission>

41 OHCHR Cambodia. Bridging the gap: A National Human Rights Institution is closer to being enshrined in Cambodian law after 20 years of discussion. October 28, 2021. <https://cambodia.ohchr.org/en/news/bridging-gap-national-human-rights-institution-closer-being-enshrined-cambodian-law-after-20-0>

42 The Phnom Penh Post. CHRC to hold 60 meetings on the national rights commission. July 12, 2021. <https://www.phnompenhpost.com/national-politics/chrc-hold-60-meetings-national-rights-commission>

It is important to note, however, that this process has not been free from criticism. By August 2021, a significant number of CSOs released a joint statement listing some of the reasons why they have been facing some concerns in relation to the process that would lead up to the establishment of the NHRI⁴³. Among other things, these CSOs referred to a delicate human rights environment existing in the country and to the necessity to tackle this situation, requiring a guarantee that a future NHRI would actually be independent and able to fulfil its objectives.

Despite these circumstances, it is positive that the first brick for establishing an NHRI has already been set after a long wait. The UPR contributed to this process by keeping the discussions around this crucial measure alive over the years. From now on, the State should devote efforts to make sure that the draft law is adopted, taking into account the feedback received from stakeholders – including organisations from civil society, and that its content reflects a consensus among relevant actors. The final outcome of this process will be the creation of an independent NHRI that abides by the Paris Principles and has the capacity to fulfil its mandate to protect and guarantee human rights across the country.

The achievement in Cambodia can be attributed to the following:

- *The UPR constantly raising awareness of this pivotal need to create an independent NHRI, as a result of permanent demand by CSO;*
- *The CHCR recognising the importance of liaising with international colleagues to learn from their experiences and utilising the support of the OHCHR;*
- *The CHCR consulting a large number and broad range of actors to get their perspective and making engagement accessible to individuals with use of social media and other public forums.*

“

“I would definitely say that awareness on the UPR is much higher now and is growing with each UPR cycle. We have seen even the smallest organisations, individually or in conjunction with others, submitting stakeholders reports to the review”

Gyan Kothari, Secretary & Research Lead at WGHR

⁴³ Joint Statement. Redress Cambodia's human rights situation before establishing an NHRI. https://www.camboja.net/wp-content/uploads/2021/08/JS-on-Establishment-of-NHRI.En_.pdf

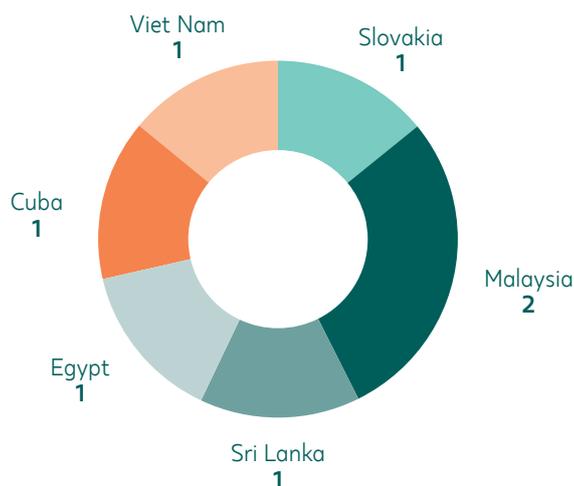
Canada: A historic recognition of the basic right to housing



The number of homeless persons in Canada had been increasing for some years⁴⁴. The Canadian Observatory on Homelessness reported in 2016 that, according to statistics, at least 235,000 Canadians experienced homelessness per year, and that this number could be potentially higher considering the existing limitations to gather reliable information in this regard⁴⁵. According to its findings, the problem of homelessness impacted vulnerable populations such as women, the elderly and Aboriginal Peoples, including First Nations, Métis, and Inuit peoples in a disproportionate way⁴⁶.

As of the first cycle of the UPR, Canada has been receiving recommendations to tackle this urgent matter and has responded in a positive manner. For example, between the first and second UPR cycles, the northern country received recommendations from six of its peers to adopt either general measures or a national strategy that aimed at guaranteeing the right of housing to Canadian People, paying particular attention to the situation of disadvantaged groups and low-income families⁴⁷. Not only had Canada supported all those recommendations but in November 2017 it took a major step forward by adopting at the federal level the National Housing Strategy (hereinafter, "NHS").

Graphic n° 5: Distribution of UPR recommendations received by Canada on the right of housing between the first and second UPR cycles from recommending States



Source: UPR Info's Database

⁴⁴ UN Committee on Economic, Social and Cultural Rights. Concluding observations on the sixth periodic report of Canada. E/C.12/CAN/CO/6. 26th March 2016. <https://undocs.org/Home/Mobile?FinalSymbol=E%2FC.12%2FCAN%2FCO%2F6&Language=E&DeviceType=Desktop&LangRequested=False>

⁴⁵ Stephen Gaetz, Erin Dej, Tim Richter, & Melanie Redman (2016): The State of Homelessness in Canada 2016. Toronto: Canadian Observatory on Homelessness Press. P. 5. https://homelesshub.ca/sites/default/files/SOHC16_final_20Oct2016.pdf

⁴⁶ Ibid. P. 32.

⁴⁷ In the first UPR cycle, Canada received two recommendations in this regard. This number increase to 5 in the second cycle.

To complete this effort, the Federal Government set up various platforms that were available for individuals and organisations to submit their thoughts on the NHS. This included roundtables with experts and indigenous groups, focus groups with vulnerable people, town halls with members of the Parliament, social media submissions and an online survey⁴⁸. The NHS adopted after this process sought to re-engage the Federal Government in the task of ensuring affordable housing by making an ambitious investment in this regard, as part of its long term-plan of fighting against poverty in the country⁴⁹. This strategy can also be praised for incorporating a human-rights based approach to the problem of homelessness in Canada, by recognising that the right to housing is a human right⁵⁰.

After this happened, the recommendations formulated in the framework of the UPR concerning the right to housing in Canada, shifted into a different direction. According to the NHS, the Government was meant to enact new legislation that would focus on the implementation of the strategy with the goal of ensuring its stability and growth⁵¹. With this point of departure, different CSOs were pushing for the adoption of such legislation in an effort to make sure that it would also follow a human rights-based approach and that it would provide Canadians with a formal access to remedies in case of violation. CSOs turned to the UPR to advocate for the Government to consider these views. They both submitted a joint report to the third cycle review asking States to endorse their demands through concrete UPR recommendations⁵² and also lobbied a number of States to adopt their recommendation proposals⁵³. These strategic steps were part of a broader set of initiatives carried out at the national level to put pressure on the State in this regard.

As a result of these efforts, Canada received 13 recommendations concerning the right of housing, out of which two directly referred to the importance of adopting legislation that fully recognized the right to housing and provided for effective remedies if a violation occurs. Unfortunately, these specific recommendations were noted by Canada even though they serve as a basis to raise awareness on this matter and push the State to adopt a voluntary pledge committing itself to “continue to take legislative and other steps to progressively realise the right to adequate housing as part of an adequate standard of living for its citizens”.

UPR recommendations have been used by CSOs to inform their national advocacy activities and keep the conversation going around the need to guarantee the right to housing and offer access to remedies. In 2019, the Canadian Parliament passed the National Housing Strategy Act⁵⁴ (hereinafter “the Act”), which adheres to the human rights-based approach of the NHS. Although the Act does not grant citizens access to effective remedies in case of a potential violation of the right to housing, its enactment already constitutes progress.

The Act explicitly mentions that the right to housing has a fundamental nature and that it should be progressively realised in accordance with international human rights standards. In addition, it establishes a set of bodies that are meant to support the implementation of the NHS, monitor its progress, and offer individuals some alternatives to communicate their concerns in this regard to the authorities and receive a response. In particular, the Act creates the Federal Housing Advocate, supported by the Canadian Human Rights Institution. Among other things, this organ has the competence to receive submissions in relation to systemic housing issues, to conduct hearings with respect to these

48 The Conference Board of Canada. What we heard. Shaping Canada's National Housing Strategy. Annex II. <https://www.placetocallhome.ca/-/media/sf/project/placetocallhome/pdfs/NHS-What-we-heard-report-en.pdf>

49 Canada's National Housing Strategy. A place to call home. P. 3. <https://eppdsrsmssa01.blob.core.windows.net/cmhcprodcontainer/sf/project/placetocallhome/pdfs/canada-national-housing-strategy.pdf>

50 Ibid. P. 8-9.

51 Ibid. P. 9.

52 Joint Submission to the Human Rights Council on the occasion of the 3rd Universal Periodic Review of Canada. 5 October 2017. P. 14. <https://static1.squarespace.com/static/595d068b5016e12979fb11af/t/Sa0373eb085229fe4471e480/1510175727363/UPR-2017-Final-Submission.pdf>

53 Social Rights Advocacy Center. Some key's recommendations for Canada's upcoming UPR 3rd cycle.

54 National Housing Strategy Act. S.C. 2019, c. 29, s. 313. Assented to 2019-06-21: <https://laws-lois.justice.gc.ca/eng/acts/N-11.2/FullText.html>

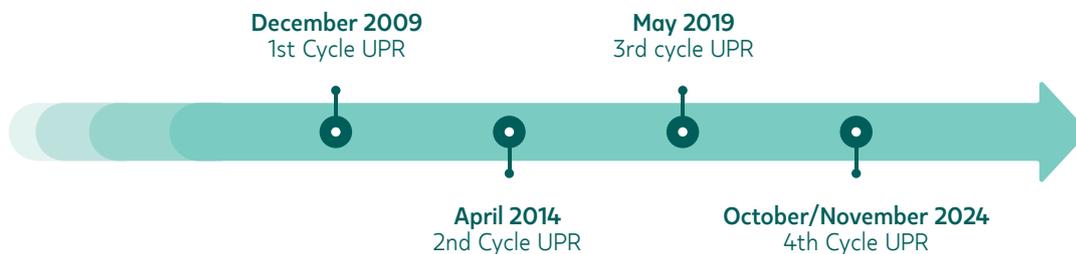
problems, and to propose an opinion or recommendation over the issue to the relevant authorities. Even when this is not a judicial mechanism, it still provides people with a public space to share their concerns in relation to their right to housing and receive recognition from State's authorities.

There are still some challenges ahead in order to make sure that the aspirations of the NHS and the Act become a reality for the benefit of the Canadian population. CSOs are permanently working on giving visibility to these issues and asking the Government - both at the Federal and the Provincial level - to take steps further to guarantee the right of housing. The UPR mechanism has proved to be a useful tool to stakeholders to keep relevant conversations alive around the most complex and structural issues such as protecting economic, social and cultural rights and lay the foundations for transformative development.

The following factors have contributed to the positive steps forward in Canada:

- *Using the UPR as a platform to keep relevant conversations going around the most complex and structural issues such as protecting economic, social and cultural rights, paving the way for transformative development to take place;*
- *Promoting an active dialogue between national CSOs and recommending States so the recommendations raised during the UPR can be adjusted to national needs and the opportunities available at the local level;*
- *Conducting genuine consultations between the Federal Government and civil society organisations/individuals, including roundtables, focus groups, town halls and online submissions, these being a necessary step to adopt public policies on human rights*

Côte d'Ivoire: More than a plan, a human rights monitoring tool



The UPR is the only UN human rights mechanism that provides an official avenue to engage different actors in a broad dialogue and it thrives whenever the degree of participation is high and wide. In this report, a number of practices that involve the engagement of NHRIs, CSOs, Parliamentarians and members of the UNCT have been highlighted. Nevertheless, the case of Côte d'Ivoire should be looked at carefully as it is a good representation of how the multilateral interaction in relation to the UPR can be of particular value.

The National Human Rights Council of Côte d'Ivoire (hereinafter "CNDH CI" for its acronym in French) has developed a set of important strategies to make sure that the UPR gets to play a meaningful role in the adoption of measures to improve the human rights situation in the country. As part of its functions, the CNDH CI has worked closely with actors such as Government representatives, CSOs, Parliamentarians and Diplomatic delegates based in Abidjan, immediately after the State was reviewed in the third cycle of the UPR, back in 2019.

For example, the CNDH CI reached out to the Government after the 33rd session took place in Geneva to encourage it to support some of the recommendations that were being reviewed at the time before deciding the final word of the State in this regard⁵⁵. The Council argued that most of these recommendations were like others that had already received the support of the State in the previous cycles of the UPR and were undergoing monitoring, and for this reason, there was no point in noting them this time. As a consequence of this, the State ended up supporting nine additional recommendations that mainly related to its duty to adopt measures to protect migrant workers and collaborate with the work of the International Criminal Court⁵⁶. In light of this, Côte d'Ivoire supported a total of 222 recommendations during the Adoptions of the Outcome reports at the HRC, instead of the 213 initially supported in the Draft Report. Among other things, this strategy proves that an active and constant monitoring of the past UPR recommendations can contribute to keeping alive the commitments made by States despite the passage of time.

The work with Parliamentarians has also been used as a window of opportunity to advocate for the implementation of UPR recommendations by the CDI CNDH. Aware of the pivotal role that Parliamentarians play in this regard, the CDI CNDH sought to engage them as allies during the follow-up phase of the third UPR cycle. The CDI CNDH developed two strategic workshops with members of both Chambers of the Parliament, namely, the National Assembly and the Senate, to raise awareness on their legal mandate to authorise the Government to ratify international treaties⁵⁷.

This constituted a promising measure considering that the ratification of international treaties makes up to a significant number of the recommendations received by Côte d'Ivoire during the third cycle review⁵⁸. For instance, after participating in these workshops, Parliamentarians from both chambers have sped up the process of enacting a law that would pave the way for the Government to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, a recommendation that has repeatedly been made throughout the UPR cycles⁵⁹. Three technical sessions were developed to orientate Parliamentarians in their role in the follow-up and effective implementation of UPR recommendations⁶⁰.

In addition to this, the CNDH CI has also involved Diplomats in its efforts to encourage the implementation of UPR recommendations. In the past recent years, the CNDH CI has been developing meetings with Delegates of Embassies located in Abidjan every three months⁶¹. These encounters aimed at sharing reliable information concerning the general human rights situation in the country with Diplo-

55 Human Rights Council. Draft report of the Working Group on the Universal Periodic Review* Côte d'Ivoire. 6-17 May 2019. https://www.upr-info.org/sites/default/files/documents/2019-05/a_hrc_wg.6_33_14.pdf

56 Human Rights Council. Rapport du Groupe de travail sur l'Examen périodique universel Côte d'Ivoire Additif* Observations sur les conclusions et/ou recommandations, engagements et réponses de l'Etat examiné. 10 September 2019. A/HRC/42/6/Add.1 https://www.upr-info.org/sites/default/files/documents/2019-09/a_hrc_42_6_add.1_av_cote_divoire_fpdf

57 CNDH. Rapport Annuel CNDH 2019. Les programmes de renforcement des capacités. P. 80. <https://cndh.ci/wp-content/uploads/2015/10/RAPPORT-ANNUEL-CNDH-2019.pdf>

58 Around 25% of the UPR recommendations supported by Cote d'Ivoire concern the ratification of an international treaty. For more on this: [https://upr-info-database.uwazi.io/library/?q=\(allAggregations:!f,filters:\(cycle:\(values!\(%27567eec7b-d5ab-4c36-a712-57c38fae9124%27\)\)\),issues:\(values!\(%273d7eb25c-f23-4835-bb-df-6beb115e63%27\)\)\),state_under_review:\(values!\(es61f6witst\)\)\),from:0,includeUnpublished:!f,limit:30,order:desc,sort:creationDate,types:\(%275d8ce04361c-de0408222e9a8%27\),unpublished:!f\)](https://upr-info-database.uwazi.io/library/?q=(allAggregations:!f,filters:(cycle:(values!(%27567eec7b-d5ab-4c36-a712-57c38fae9124%27))),issues:(values!(%273d7eb25c-f23-4835-bb-df-6beb115e63%27))),state_under_review:(values!(es61f6witst))),from:0,includeUnpublished:!f,limit:30,order:desc,sort:creationDate,types:(%275d8ce04361c-de0408222e9a8%27),unpublished:!f))

59 During the first UPR cycle, Cote d'Ivoire was recommended to ratify the Optional Protocol in five opportunities. In the second cycle, this number increased to a total of 9 recommendations. The 3rd cycle saw this recommendation being made 19 times.

60 CNDH. Rapport de mise en œuvre. Troisième cycle de l'EPU de la Côte d'Ivoire Activités à mi-parcours de l'EPU 2021

61 For more on this please visit: CNDH. Droit de l'Homme: le CNDH fait le point de la situation du 12 novembre 2021 au 28 mars 2022. Available at: <https://cndh.ci/droit-de-lhomme-le-cndh-fait-le-point-de-la-situation-du-12-novembre-2021-au-28-mars-2022/> and, CNDH. Droit de l'Homme: le CNDH présente la situation du 1er juillet au 10 novembre 2021. <https://cndh.ci/droit-de-lhomme-le-cndh-presente-la-.../>

matic bodies, so they can refer to this input when designing their actions and strategies. The CNDH CI devoted one of these meetings to exclusively address the participation of Côte d'Ivoire in the third cycle of the UPR and the main outcomes of the review. Diplomats from countries such as Spain, Switzerland, France and from the European Union have been particularly active in this interaction.

As a last axis of this strategic approach to the UPR, the CNDH has continued to work closely with CSOs, in particular with the *Comité de Suivi EPU*, a very strong CSO Coalition that started to engage with the UPR as of 2013⁶². This collaborative work has mainly aimed at systematising the UPR recommendations, monitoring their implementation, and aligning their strategic actions during the follow-up phase of the UPR. In the context of this process, both organisations have received technical support from UPR Info which has met with them to assess their strategies around the UPR and provide them with tools for the elaboration of mid-term reports that are currently under development⁶³. For the CNDH CI, this would be the second opportunity to produce such a report, which is remarkable⁶⁴.

The multilateral approach of the work conducted by the CNDH CI represents a good practice from which actors from other countries can draw important lessons. It relies on the UPR being a mechanism that promotes open and democratic dialogues and consultations among different stakeholders, making it evident that the success of the process on the ground is directly linked to the permanent cooperation and coordination of these actors. Currently, the State is in the process of approving a National Human Rights Plan that seeks to set in place a national strategy composed of 350 activities to implement the recommendations received from the UPR and other UN human rights mechanisms⁶⁵. This shows that the road ahead in terms of implementation is still long, but the practices mentioned here have the potential to render great results in the medium and long-term.

The progress in Côte d'Ivoire has been achieved as a result of:

- *Enhancing the capacity of different actors for actively monitoring recommendations received in the past cycles of the UPR as a way to timely react during the most current reviews;*
- *Recognising the importance of strong and effective multilateral interaction, requiring buy-in from the NHRI, Parliamentarians, CSOs and government representatives;*
- *Working with Diplomats at the national level, by identifying the essential role they fulfil in engaging with Governments to bring positive human rights changes on the ground.*

62 The Coalition is integrated by five members namely: Coalition Ivoirienne des Défenseurs des Droits Humains; Centre Féminin pour la démocratie et les Droits Humains en Côte d'Ivoire; Club Union Africaine Côte d'Ivoire; Ligue Ivoirienne des Droits de l'Homme; and Mouvement Ivoirien des Droits Humains. The Coalition has organised its internal structure around four thematic groups that are composed by members of the said organisations, taking into account their area of expertise: (i) civil and political rights; (ii) economic, social and cultural rights; (iii) women and children's rights; (iv) vulnerable groups' rights.

63 UPR Info. Rapport d'activité. Côte d'Ivoire. Ateliers sur la mise en œuvre des recommandations EPU et les rapports à mi-parcours. 4 août – 15 octobre 2021

64 CNDH. Suivi de la mise en œuvre de certaines recommandations de l'EPU de la Côte d'Ivoire du 29 Avril 2014. Available at: https://www.upr-info.org/sites/default/files/documents/2018-11/epu_du_7_mai_2019_de_la_cote_divoire_-_rapport_de_la_cndhci_-_2_oct_2018.pdf

65 Agence Ivoirienne de Presse. La Côte d'Ivoire dispose de son premier Plan national des droits de l'Homme. Available at: <https://www.aip.ci/aip-la-cote-divoire-dispose-de-son-premier-plan-national-des-droits-de-lhomme-communique/>

Democratic Republic of Congo: A current effort with long-term impact: the establishment of the free primary education policy



From the first cycle, the UPR has had to address some of the most structural and urgent issues. The mechanism aims at completing a comprehensive assessment of how the States observe all of their international human rights obligations, and, in light of this, discussions around the respect, protection and fulfilment of economic, social and cultural rights have been at the heart of the process. For some, the UPR has shown to be “a promising avenue for promotion of economic, social and cultural rights”⁶⁶. This capacity of the UPR is of the utmost importance, considering the existing challenges both in reporting and monitoring progress at the international level regarding these types of human rights.

One of the topics that has repeatedly been addressed during reviews of the Democratic Republic of Congo (hereinafter “DRC”) is the protection of children’s right to education. In particular, the Sub-Saharan State has been constantly asked to adopt steps to guarantee that education is free to children all over the country. CSOs have seized the opportunity so that their participation in the UPR offers to raise awareness of the necessity to recommend that the State adopt meaningful measures to take care of this delicate situation⁶⁷. Likewise, the DRC National Human Rights Commission has referred to the disproportionate impact that the lack of free primary education has on children who come from economically disadvantaged families⁶⁸.

In the first cycle, the DRC received two concrete recommendations in this regard from the State of Uruguay and the Holy See, while the remaining recommendations concerning this right were formulated in a mostly general way. However, during the second round of the UPR, this demand got the attention of a greater number of States. In total, the DRC received nine recommendations suggesting the implementation of measures to eradicate any costs associated to primary education, therefore allowing more children to enjoy this basic human right⁶⁹. In the third UPR cycle, 18 recommendations directly referred to this social right, 12 of which suggested that the State remove access barriers to its enjoyment by ensuring free primary education⁷⁰. All of these recommendations have been supported by the DRC.

It can be presumed that the increasing attention this issue has received in the context of the UPR comes from the urgency of the matter. The lack of access to free primary education in the DRC has been a critical problem for years. In 2014, the State enacted *Loi Cadre No. 14/004*⁷¹ and *Décret No. 14/029*⁷² stating that primary education was free in its territory, however it was not able to mobi-

66 Richardson Lucy, “Economic, Social and Cultural Rights (and Beyond) in the UN Human Rights Council” in *Human Rights Law Review*, 2015, 15, 409–440. P. 427. Also, refer to: Duggan-Larkin, Jessica. “Can an intergovernmental mechanism increase the protection of human rights? The potential of Universal Periodic Review to the realisation of economic, social and cultural rights” in *Netherlands Quarterly of Human Rights*, Vol. 28/4, 548–581, 2010.

67 OHCHR. Summary of Stakeholders’ submissions on the Democratic Republic of the Congo. 19 February 2019. A/HRC/WG.6/33/COD/3. Paragraphs 43-45.

68 Commission Nationale des Droits de l’Homme. Contribution de la CNDH à l’Examen Périodique Universel 3ème cycle. Available at: https://www.cndhrdc.cd/glis_c/a_cndh/SKE_a_cndh_5356191203cont.pdf

69 See recommendations from Egypt, Slovenia, Hungary, Sudan, Timor-Leste, Ethiopia, Zimbabwe, Malaysia, and Namibia.

70 See recommendations from North Korea, Estonia, India, Lebanon, Togo, Libya, Malta, Mauritius, Morocco, Poland, Afghanistan, Palestine, Argentina, Liechtenstein, Djibouti, Gabon, and Laos.

71 To consult the law please visit: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101404/122157/F920043169/COD-101404.pdf>

72 To consult the decree please visit: https://www.droitcongolais.info/files/512.11.14.2-Decret-du-18-novembre-2014_Manuels-scolaires_agrement.pdf

lise the necessary financial resources to translate this normative framework into a reality. In 2017, the Committee on the Rights of the Child expressed its concern on the fact that large numbers of Congolese children abandon school due to the excessive costs that their education represents, asking the State to take necessary steps to make sure that primary education is accessible to all children without discrimination and free of charge, which involved removing any indirect costs⁷³. In light of this, until 2019, the DRC remained one of the few countries worldwide where primary education schools still charged fees⁷⁴.

Nevertheless, the long-awaited change was finally kicked-off in August that year, when the implementation of a free primary education policy was announced by the Secretary General for Primary, Secondary and Technical Education. According to this new policy, costs related to organising primary education would now be covered by the public treasury and in addition, other measures would be adopted to ensure that teachers would receive a readjustment in their salaries and other benefits such as the payment of transport and housing allowances⁷⁵.

Even though this policy initially tackled around 60% of primary schools in the DRC, the measures set in place have had a direct impact on nearly 4 million students that have been able to join primary school since the start of the academic year in September 2019, according to statistics from the Ministry of Education⁷⁶, the National Institute of Statistics and DRC Crisis Observatory⁷⁷. Similarly, the policy had indirectly impacted secondary school students, as right after it was set in motion, enrolments at this level of education also saw an increase⁷⁸.

The implementation of this policy has raised important challenges for the State, which has had to quickly adapt to properly respond to the great number of students that have returned to schools that lacked an adequate infrastructure, and that were received by teachers that found it difficult to cope with substantially bigger classes⁷⁹. Additionally, the State has faced difficulties in ensuring that the policy equally benefits boys and girls from the capital city and other regions of the DRC. As of March 2020, the World Bank has secured financial support for the implementation of this policy totalling \$1 billion per year, which represents a great opportunity to keep adjusting this measure according to the most urgent needs on the ground. The education policy would contribute to lifting nearly 23 million Congolese people out of poverty⁸⁰.

The good practice described here is a great example of how UPR recommendations are not limited to achieving changes concerning human rights that are civil or political in nature. On the contrary, the mechanism provides a relevant platform to start a constructive dialogue around structural social issues whose attention normally entails the concurrent deployment of a series of actions that are dependent on the availability of resources. Furthermore, by implementing this type of recommendations, States can simultaneously get closer to achieve the SDGs set by the 2030 Agenda⁸¹. The impact of the UPR recommendations in the long-term is, in addition, one of the greatest benefits that the review can offer.

73 United Nations Committee on the Rights of the Child. Concluding observations on the combined third to fifth periodic reports of the Democratic Republic of the Congo. 28 February 2017. CRC/C/COD/CO/3-5. paragraphs 39-40.

74 The World Bank. When I grow up, I'll be a teacher – The new ambitions of Congolese schoolchildren now that school is free. 16 June 2020. Available at: <https://www.worldbank.org/en/news/feature/2020/06/16/the-new-ambitions-of-congolese-schoolchildren-now-that-school-is-free>

75 Ministère de l'Enseignement Primaire, Secondaire et Technique. EPST: Les grandes lignes sur la gratuité de l'enseignement de base. Available at: <https://www.eduquepsp.education/v1/epst-les-grandes-lignes-sur-la-gratuite-de-lenseignement-de-base/>

76 Ministère de l'Enseignement Primaire, Secondaire et Technique. EPST: Un projet de la Banque Mondiale pour soutenir la gratuité de l'enseignement. <https://www.eduquepsp.education/v1/epst-un-projet-de-la-banque-mondiale-pour-soutenir-la-gratuite-de-lenseignement/>

77 Latif Scherezad and Adelman Melissa. Free Primary Schooling in the DRC? Where we are on the road to reform. 03 August 2021. Available at: <https://blogs.worldbank.org/education/free-primary-schooling-drc-where-we-are-road-reform>

78 Ibid.

79 For a more substantive analysis of these challenges please refer to: Equal Rights. In 2019, the Democratic Republic of Congo introduced free education; here's what happened. 12 May 2021. Available at: <https://www.equaltimes.org/in-2019-the-democratic-republic-of?lang=es#.YnRjvsPMJQI>

80 The World Bank. When I grow up, I'll be a teacher – The new ambitions of Congolese schoolchildren now that school is free. 16 June 2020. Available at: <https://www.worldbank.org/en/news/feature/2020/06/16/the-new-ambitions-of-congolese-schoolchildren-now-that-school-is-free>

81 In this particular case, the policy adopted by the DRC contributes to the achievement of SDG 4, target 4.1: "By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes"

The DRC's achievement regarding the right to free education act as concrete example of:

- *The value of seeing the UPR as a tool for development, promoting, therefore, the adoption and implementation of recommendations that encourage States to adopt measures to fulfil economic, social, and cultural rights;*
- *The capacity of the UPR mechanism to facilitate human rights measures with long-term impact;*
- *The importance of considering the financial aspect when formulating and supporting UPR recommendations whose feasibility is linked to the availability of economic resources, as well as the need to consider the possibility to provide financial support as part of States cooperation, when appropriate.*

India: Union is strength: CSO coalitions as agents of change



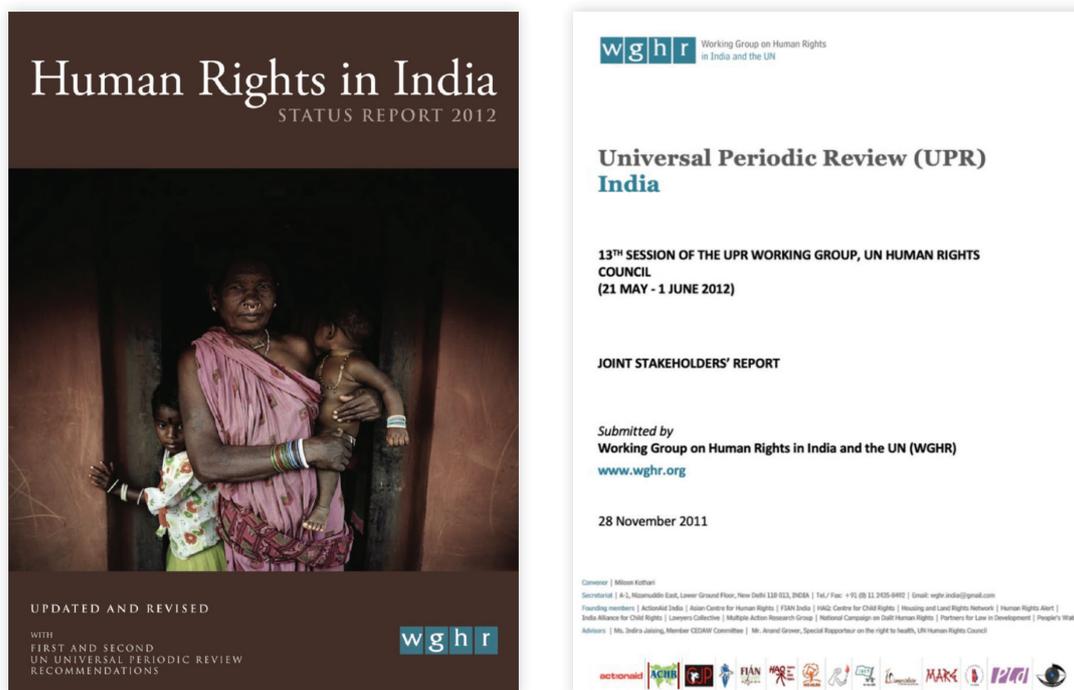
India was one of the first States to be reviewed during the third cycle of the UPR. Even though all the States face important challenges to implement the recommendations received during the review, these challenges seem to involve a particular complexity in the case of India, considering the vast territorial extension of the country, its total population and the federal governmental system followed by the State.

Throughout these years, local civil society organisations have had to organise themselves to cope with the very same challenges. However, their experiences prove that planning, coordination, commitment and creativity are essential assets to succeed in the task of seizing the UPR as a real tool for change. In particular, the establishment of coalitions allows CSO to join efforts that benefit the implementation of their strategies around the UPR, contributing at the same time to the dynamic of the mechanism by providing accurate information enriched by different approaches.

The work of the Working Group on Human Rights in India and the UN (hereinafter, "WGHR" or "the Coalition") has been remarkable in this regard. The Coalition congregates a total of nine human rights organisations and two independent experts from India, and manages a network of around 2,000 partner organisations from all over the country. Its main activities started on the occasion of the second UPR cycle of the State. Then, the Coalition organised a series of regional and national

consultations to elaborate a joint stakeholders' report submitted to the review⁸², and later, it worked on a research study that assessed the human rights situation in the country, using as a parameter the recommendations issued during the first and second cycles of the UPR⁸³.

Graphic n° 6: Some reports produced by the WGHR in relation to the UPR



Similarly, the Coalition created a monitoring tool consisting of a thematic table where it was able to track the progress of the State in implementing the UPR recommendations received during the first two cycles in relation to a list of topics of the utmost importance for the situation of the country⁸⁴. This matrix was completed with information provided by WGHR members and partnering networks, and included both key indicators in each thematic area and references to the State's institutions in charge of implementing the said recommendations.

Moving forward into the third cycle of the UPR, the Coalition has been constantly building upon its previous achievements. In 2017, it organised a live webcast event of the adoption of India's 3rd UPR report⁸⁵. In the framework of this activity, more than 10,000 people from all the regions of the country gathered in different settings to watch the State's response during its review, becoming closer to the UPR. In 2020, despite the challenging circumstances imposed by the pandemic, WGHR managed to gather information from its member and partner organisations, and to conduct comprehensive factual research in order to put together a mid-term report submitted in the follow-up phase of the third UPR cycle⁸⁶. This report provided a necessary assessment of how far the State of India has come with regard to the implementation of the UPR recommendations in relation to 15 thematic issues.

82 Available at: https://lib.ohchr.org/HRBodies/UPR/Documents/session13/IN/WGHR_UPR_IND_S13_2012_WGonHRinIndiaandtheUNcomprisingofActionAidIndia_E.doc

83 Available at: https://wghr.org/wp-content/uploads/2022/03/HumanRightsInIndia_StatusReport2012.pdf

84 Available at: <https://wghr.org/wp-content/uploads/2022/03/WGHR-UPR-I-II-Implementation-Matrix.pdf>

85 UPR Info. Indian civil society organises nationwide screenings of UPR adoption. Available at: <https://www.upr-info.org/en/news/indian-civil-society-organise-nationwide-screenings-of-upr-adoption>

86 <https://wghr.org/wp-content/uploads/2022/03/WGHR-India-UPR-III-Mid-Term-Report.pdf>

In addition, the mid-term report served as baseline information to start working on the elaboration of a new joint stakeholders' report, in light of the upcoming 4th cycle of the UPR. With this in mind, WGHR, with support of the UNCT in India, organised a set of regional consultations and a national consultation where human rights experts and grassroots activists reunited aiming to articulate the human rights situation across the country, assess the progress achieved by the State concerning the implementation of the UPR recommendations, and work together on the substantive content of the joint report.

The regional consultations were carried out in an online format and covered at least four zones of the country, which represented more than 30 states or union territories⁸⁷. In the case of the South zone, the consultations were organised by the organisation People's Watch – a member of the Coalition – in coordination with the WGHR Secretariat. This partnership permitted the development of six states' consultation in vernacular languages⁸⁸, therefore engaging a broader range of local stakeholders. To guarantee an efficient dialogue and consistency among the outcomes of the different consultations, the Secretariat of the Coalition relied on learning and engagement resources elaborated by UPR Info. The office also drafted guiding questions that sought to encourage participants to reflect on what legal measures had been adopted by the State, which were the most concerning obstacles against implementation, and what aspects they considered should be brought to the 4th cycle of the UPR.

On the other hand, the national consultation was the only meeting held in person due to COVID-19 pandemic restraints. The meeting took place in New Delhi and facilitated an in-person exchange that resulted in the drafting of thematic recommendations that were later on incorporated in the joint stakeholders' report. A total of 124 participants from CSOs, academia, UNCT and the National Human Rights Commission were present in the National Consultation.

The initiative led by the Coalition has expanded the impact of the UPR to new stakeholders. The joint stakeholders report submitted by WGHR was endorsed by 406 organisations and individuals from across the country⁸⁹, which represents an increase of almost 100% over the number of organisations that endorsed the first joint report submitted by the Coalition to the second cycle of the UPR. Furthermore, the work of WGHR has contributed brought to the table emerging topics such as the protection of the environment and the fight against climate change, issues on which India went from receiving one recommendation during the second UPR cycle, to receiving six in the third cycle⁹⁰.

This good practice is irrefutable evidence of how organisation, strategy and smartness can pave the way for great achievement even in the most challenging scenarios. The joint and steady work of civil society organisations in India, together with the cooperation of the international community, is a positive example that can inspire other stakeholders interacting with the UPR to establish alliances that allow them to take the most from this mechanism.

87 WGHR. Civil Society Consultations for UPR IV. Concept Note.

88 People's Watch: "UPR IV TAMIL NADU STATE CONSULTATION REPORT: ITS GENESIS"
<https://www.peopleswatch.org/reports/publications/upr-iv-tamil-nadu-state-consultation-report-its-genesis>

89 <https://wghr.org/wp-content/uploads/2022/04/WGHR-UPR-IV-Joint-Stakeholders-Report.pdf>

90 In the second cycle of the UPR, India received one recommendation in this regard from Iran. In the third cycle, five States recommended that India adopt steps in relation to the protection of the environment: Uganda, Palestine, United Arab Emirates, Brunei and Vietnam.

Success in India with regard to its engagement with the UPR has been achieved by:

- *Establishing strong alliances among CSOs working across the country, increasing the opportunities to engage new actors in the dialogue and enhance the impact of CSOs' activities;*
- *Organising this collaborative work through the establishment of a Coalition with the capacity to manage and lead the efforts of the member organisations even in the most challenging settings;*
- *Working closely with the UNCT in the design and implementation of activities around the UPR mechanism.*

Jordan: Fighting against human trafficking through the adoption of legislation



The UPR has been an important platform at the international level to address the phenomenon of human trafficking and encourage the States to adopt urgent measures in this regard. During the first cycle alone, a total of 745 recommendations were formulated by States concerning this issue. This number increased to 1,302 in the second cycle and, at the time of elaborating this report, around 1,500 recommendations have been formulated in this regard⁹¹. Mainly, recommendations have been made suggesting that States incorporate a prevention component in their initiatives, take steps to ensure that investigation, prosecution and conviction of perpetrators is possible, and integrate a gender perspective while tackling this problem.

⁹¹ This calculation covers all the recommendations made until the end of the 39th session of the UPR 3rd cycle.

CSOs brought the discussion about human trafficking in Jordan to the table during the third cycle of the UPR⁹². Despite most of the recommendations received by Jordan in relation to this topic having been framed in a general way⁹³, the country managed to adopt specific actions and achieve important progress. Concretely, in 2019, the National Committee for Combating Human Trafficking approved the National Strategy to combat human trafficking (2019-2022)⁹⁴, which was elaborated in the frame of the “EU Mobility Partnership” and involved coordinated efforts from the National Committee, local and international CSOs, and experts of the EU-funded International Centre for Migration Policy⁹⁵.

Graphic n° 7: Types of recommendations received by Jordan on human trafficking from the third UPR cycle



Source: UPR Info's Database

The National Strategy aims to define a common vision and basis in the way the State moves forward to prevent human trafficking. It sets up a plan composed of four main axes: prevention, protection, prosecution, and cooperation. The prevention component includes comprehensive policies to raise awareness on the issue and promote preventive measures to address the causes of trafficking. The prosecution axis focuses on strengthening the rule of law, creating a specialised judiciary, and providing specialised training to justice operators. In relation to the protection component, the National Strategy aims at strengthening the capacity of law enforcement, providing assistance to victims at all stages, ensuring their physical and psychological recovery, and ensuring their voluntary and safe return. Finally, the cooperation element relates to local, regional, and international cooperation to emphasize a participatory approach in the field of combating human trafficking.

In addition, in 2021, the Parliament approved the Anti-Human Trafficking Law No. 10⁹⁶, through which it amended the 2009 Anti-Human Trafficking normative framework, that had been criticized for not fulfilling the international standards to protect the rights of victims of forced labour, in particular,

92 Arab Women's Legal Network - AWLN. Submission to the United Nations Universal Periodic Review of Jordan. Third Cycle. 31st session of the UPR. Human Rights Council. October - November 2018. Available at: https://www.upr-info.org/sites/default/files/documents/2019-04/awln_upr31_jor_e_main.pdf

93 Jordan received a total of 15 UPR recommendations in this regard. Most of them suggest the State to continue its efforts to prevent human trafficking and punish perpetrators of the crime, while others referred to specific measures such as finalizing the draft national strategy for the prevention of human trafficking 2018-2021 (Senegal and Brunei), or conducting specialized trainings with prosecutors, labour inspectors and the public sector in general to sensitize them on this topic (United Kingdom and Qatar).

94 National Strategy to Combat Human Trafficking for the Years 2019-2022. Available at: <http://www.moj.gov.jo/EchoBusV3.0/SystemAssets/PDF/AR/استراتيجية الاتجار بالبشر.pdf>

95 Petra - Jordan News Agency. National Strategy for the Prevention of Human Trafficking launched. 18 April 2018. Available at: https://petra.gov.jo/Include/InnerPage.jsp?ID=15020&lang=ar&name=en_news

96 Anti-Human Trafficking Law No. 10 for the Year 2021. Available at: https://doc.pn.gov.jo/DocuWare/PlatformRO/WebClient/Client/Document?did=56436&fc=7e6f119f-71f4-4ed3-8023-b6a6db8bc15&orgId=1&_auth

when these were migrants⁹⁷. The Law No. 10 came after an advocacy campaign organised by international organisations such as IOM, UNHCR, UNODC, ILO under the lead of the UNCT, which in cooperation with CSOs was run to encourage the State to implement recommendations arising from the UPR and other human rights mechanisms with a focus on migrants' rights⁹⁸. The amendments introduced by the law increase the penalties applicable to the list of conducts that meet the definition of human trafficking and expand the scope of criminalisation by adding new acts to the said list such as the exploitation of beggars.

At the operational level, this new law creates a set of measures that the Public Prosecutor may take for the purpose of ensuring that perpetrators are punished in a fair and effective manner and provides victims with protection services from the moment they are identified until their voluntary return to their countries of origin or reintegration. The Law also establishes a public fund called, "The Fund for Assistance to Victims of Human Trafficking", under the competence of the Ministry of Justice, to provide the necessary assistance to the victims and those who have suffered harm as a result of this crime. Similarly, it creates a Unit within the police's security services, specialising in issues of human trafficking. Furthermore, the implementation of the law has been accompanied by additional measures on the side of the State such as referring domestic servitude cases for prosecution or improving the case management procedures⁹⁹, and has allowed for strong cooperation between the authorities and different CSOs working in this area.

The promulgation of the law here described has been qualified as positive achievement by a coalition of Jordanian CSOs that recently submitted a joint mid-term report to the Human Rights Council. The current normative framework represents an important step forward in the fight against human trafficking. Nevertheless, there are additional steps that must be adopted in light of the seriousness of the situation. Reliable data proves that victims of human trafficking in Jordan are mostly migrant workers coming from South and Southeast Asia, East Africa, Egypt and Syria, and, as of 2018, also from Uganda¹⁰⁰. Many of them were in a vulnerable position in their countries of residence, where they experienced violence and other forms of abuse or poverty¹⁰¹. These circumstances, together with sometimes holding an illegal migratory status, make migrant workers prone to being victims of human trafficking in a variety of sectors such as construction, agriculture or domestic work¹⁰².

These types of issues should remain in the UPR agenda. The cyclical periodicity of the review contributes to timely assessment of the steps undertaken by States and promotes the adoption of further measures where the urgency of the matter under discussion requires stronger efforts. The UPR draws attention to complex problems with huge consequences, and can, in the mid-term, help to protect the rights of people who are in dire need of assistance.

97 Arab Women's Legal Network - AWLN. Submission to the United Nations Universal Periodic Review of Jordan. Third Cycle. 31st session of the UPR. Human Rights Council. October - November 2018. Available at: https://www.upr-info.org/sites/default/files/documents/2019-04/awln_upr31_jor_e_main.pdf

98 UNDP, OHCHR, UNDCO. UN good practices. How the universal periodic review process supports sustainable development. February 22. P. 31-33.

99 United States of America. Department of State. Trafficking in Persons report. June 2021. P. 324. Available at: https://www.state.gov/wp-content/uploads/2021/07/TIP_Report_Final_20210701.pdf

100 Ibid.

101 Kirk Eliza. Combatting Human Trafficking in Jordan. 24 March 2021. Available at: <https://borgenproject.org/human-trafficking-in-jordan/>

102 United States of America. Department of State. Trafficking in Persons report. June 2021. P. 324. Available at: https://www.state.gov/wp-content/uploads/2021/07/TIP_Report_Final_20210701.pdf

Jordan's progress in tackling human trafficking has included the following important elements:

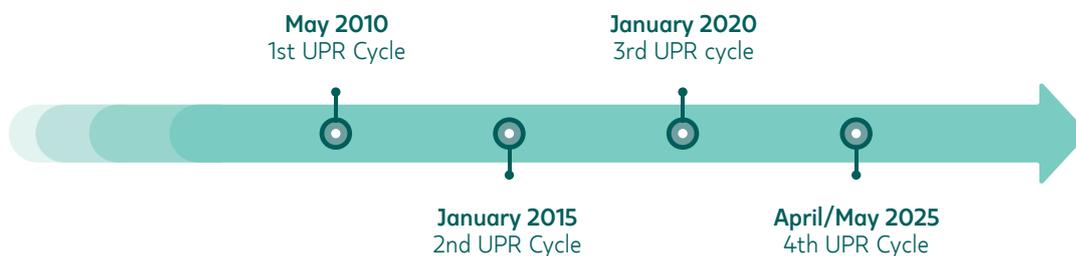
- *Promoting collaborative work among CSOs and international actors in the field such as IOM, UNHCR, UNODC, ILO, and the UNCT itself, who have technical knowledge to contribute to the implementation of UPR recommendations from a thematic perspective;*
- *Proposing recommendations that suggest States to adopt concrete and measurable actions such as creating national policies and strategies to tackle complex phenomena that threaten human rights;*
- *Elaborating and submitting State and CSOs' mid-term reports to timely monitor the progress that is taking place on the ground concerning the implementation of UPR recommendations, therefore increasing the chances that the recommendations made in subsequent UPR cycles will be more pertinent.*

“

“The international human rights mechanisms are useful for the work of civil society organisations. The UPR is particularly helpful because it addresses all the recommendations from other UN bodies. It is necessary to raise more awareness on this to encourage more and more CSO to engage with the mechanism”.

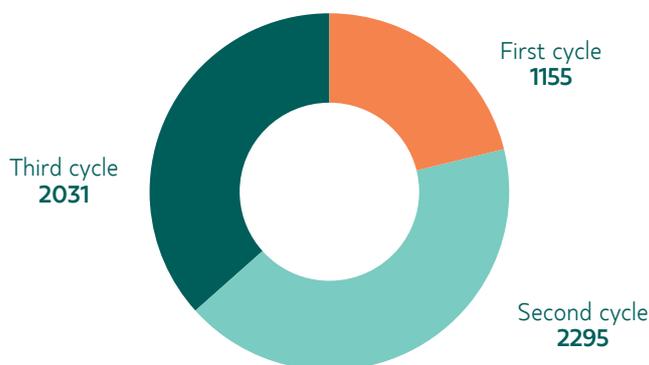
Centre for Equality Rights and Accommodation, Canada

Kenya: An integral approach to the human rights of refugees and asylum-seekers



According to UNHCR, at the time this report is being written, there are around 26.6 million refugees and 4.4 million asylum-seekers worldwide¹⁰³. People can be forced to migrate and abandon their countries of origin or habitual residence for a variety of reasons such as violence, discrimination, persecution, natural disasters, lack of access to the most basic rights and services, etc. From the moment it started to operate, the UPR has become an important international setting to shed light on the need to uphold the rights of refugees, asylum-seekers, and migrants. In a span of 13 years (2008-2021), UPR recommendations in this regard have increased by approximately 100%¹⁰⁴.

Graphic n° 8: Number of recommendations issued on refugees, asylum-seekers and migrants' rights from the first to the third UPR cycles



Source: UPR Info's Database

Kenya has been a host country for refugees for a long time. At the time of its first review in the UPR, the State hosted about 402,000 refugees mainly coming from countries such as Somalia, South Sudan, Ethiopia and the DRC¹⁰⁵. Nevertheless, the State only received two UPR recommendations suggesting the adoption of general measures to protect the rights of this population. In the second cycle, when the country was hosting more than 550,000 refugees¹⁰⁶, six recommendations were made by States, inviting Kenya to ensure refugees' rights, and, in particular, one suggested that the State implement legal and administrative measures to make sure that basic rights of refugees were being respected¹⁰⁷.

103 UNHCR. Refugee Data Finder. Available at: <https://www.unhcr.org/refugee-statistics/>

104 In the first UPR cycle, 1,155 recommendations were issued in relation to refugees, asylum-seekers, and migrants. In the second round, this number amounted to 2,295. Finally, by the 39th session of the review, 2,031 recommendations have been made in the context of the UPR third cycle.

105 UNHCR. Refugee Data Finder. Available at: <https://www.unhcr.org/refugee-statistics/download?url=C4mpHR>

106 Ibid.

107 See recommendation made by the State of Argentina.

After the second UPR cycle, the Kenyan National Assembly engaged in the process of drafting a Refugees Bill. The objective of the law would be to provide recognition and protection to refugees in the State and abide by the international standards of the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol, both ratified by Kenya¹⁰⁸.

After its first reading in September 2019, a rigorous public participation process was open to receive inputs on the bill from national and international organisations, human rights agencies, refugees and asylum seekers, and members of hosting communities¹⁰⁹. People who were interested in providing an opinion on the law were reached out to by the State through information disseminated in local daily newspapers. Public hearings were organised in selected counties of the State where participants were able to make individual or collective presentations on the text of the bill¹¹⁰. The possibility to submit written comments via memoranda was also enabled¹¹¹. As highlighted by CSOs, the process also allowed for the participation of refugees and asylum-seekers, who, for the first time in Kenya's history, were able to submit their views on a legal and policy making process that would have a major impact in their lives¹¹².

In light of this, the third review of Kenya in the context of the UPR represented a valuable opportunity for States to engage in this law-making process by formulating recommendations that would contribute to guaranteeing a legislation capable of improving the situation of refugees on the ground. Different CSOs submitted joint reports¹¹³ underlining some of the challenges that refugees face in the country to exercise their right to work, access basic services and education, or receive protection against sexual and gender-based violence, though they did not include any reference to the Refugees Bill, probably due to the fact that the deadline set by OHCHR to receive CSOs' submissions was prior to the socialization of the draft law at the national level.

As an outcome of the review, Kenya received and supported six UPR recommendations in relation to the rights of refugees. The recommendation made by the Netherlands specifically suggested that the State take immediate steps for the enactment of the Refugees Bill, endorsing amendments that lead to ensuring the right to freedom of movement and refugees' inclusion. The remaining recommendations, without expressly referencing the Refugees Bill, still provided relevant suggestions that were pertinent for its improvement.

In November 2021, Kenya's president signed the Refugees Bill 2019 into the Refugees Act 2021. By virtue of this new legislation, refugees and asylum-seekers are entitled to the right of employment and identification and are seen as active contributors to the economy and social development of the country. Similarly, the Refugees Act reinforces the principle of *non-refoulement* and adopted an intersectional approach to the situation of women, children, elderly, and people with disabilities who are refugees and should be paid special attention when deciding mechanisms for their integration¹¹⁴.

This concrete practice is a reminder that processes which achieve significant changes for the benefit of human rights are usually complex and require long-term efforts. By being a cyclical mechanism, the UPR can accompany these processes over time and engage in each and every one of its stages. In this way, timely recommendations can arise from the UPR and contribute to strengthening the results of those processes.

108 Kenya ratified the 1951 Convention on 16 May 1966, and its 1967 Protocol on 13 November 1981.

109 Refugee Consortium of Kenya (RCK). Annual Report 2019. P. 6-7.

110 Parliament of Kenya. National Assembly. Report on the Refugees Bill 2019. P. 8. Available at: http://www.parliament.go.ke/sites/default/files/2020-05/REPORT%20ON%20REFUGEEES%20BILL%2C%202019%20PART%20I_compressed_0.pdf

111 Ibid.

112 Refugee Consortium of Kenya (RCK). Annual Report 2019. P. 4.

113 The Lutheran World Federation (LWF); Refugee Consortium of Kenya; International Rescue Committee and KADANA UPR Refugees Network, Kenya. Joint Submission 22, and Kenya UPR Stakeholders' Coalition (KSC-UPR). Joint Submission 26.

114 For a more comprehensive assessment of the law please refer to: Refugee Consortium of Kenya (RCK). Synopsis of the Refugees Act, 2021.

The success in introducing legislation in Kenya regarding the rights of refugees and asylum-seekers was influenced by the following factors:

- *States increasingly recommending action on a relevant issue for the Kenyan context and reiterating its importance with each cycle;*
- *The UPR's ability to accompany a process over time and engage in each and every one of its stages;*
- *The promotion of public participation to receive inputs from national and international organisations, and those with lived experience of the issues at hand.*

Mexico: A building-up process to eradicate enforced disappearances



The State of Mexico participated in the third cycle of the UPR in November 2018. On that occasion, the country's review coincided with a period of change at the political level that was used by different actors of civil society and international organisations to promote progress concerning the protection of human rights. In particular, the context on the ground allowed the need to strengthen the actions of the State to directly tackle the phenomenon of enforced disappearances of persons within the country to be brought back to the table.

Worldwide, Mexico is one of the countries with the most disquieting rates in relation to this problem. According to updated information, the rate of enforced disappearances has increased by at least 98% between 2006 and 2021¹¹⁵, particularly affecting women and children¹¹⁶. While the first two cycles of the UPR provided room for certain States to formulate recommendations to Mexico aimed at taking action concerning this dire situation, it is the third cycle of the mechanism that has allowed for more significant achievements to take place.

In 2018, Mexico received 26 UPR recommendations related to the adoption of measures against enforced disappearance of persons. This means that more than 10% of the total recommendations received by the State were related to this matter¹¹⁷. Particularly, four of them recommended that the Mexican State recognise the competence of the Committee of the International Convention for the

¹¹⁵ Committee on Enforced Disappearance. Informe del Comité contra la Desaparición Forzada sobre su visita a México en virtud del artículo 33 de la Convención. 12 April 2022. CED/C/R.9 (Findings). Parr. 11.

¹¹⁶ Committee on Enforced Disappearance. Informe del Comité contra la Desaparición Forzada sobre su visita a México en virtud del artículo 33 de la Convención. 12 April 2022. CED/C/R.9 (Findings). Parr. 14.

¹¹⁷ During the third cycle of the UPR, Mexico received 264 recommendations, from which the State accepted 262, and noted two. For more on this please refer to: Human Rights Council. Views on conclusions and/or voluntary commitments and replies presented by the State under review. A/HRC/40/8/Add.1. 12 February 2019.

Protection of All Persons from Enforced Disappearance (hereinafter, “CED Committee”) as regulated by Article 31 of said treaty. Concretely, this acknowledgement would allow the CED Committee “to receive and consider communications from or on behalf of individuals subject to its jurisdiction that claim to be victims of this grave human rights violation”¹¹⁸. With this, victims and their relatives would have access to a broader set of alternatives to obtain international protection when facing a possible violation or threat against their human rights.

Despite the fact that during the second cycle of the UPR, three States made recommendations along the same lines to Mexico, the latter decided not to accept them, but rather noted them. In the third cycle, however, Mexico supported the four recommendations received in this regard. Moreover, the acceptance of these recommendations represented the first time that the State of Mexico acknowledged at the international level its willingness to open the door, not only to supranational scrutiny, but also to a more cohesive and multilateral reaction towards an urgent need.

While this acceptance represents in itself an advancement achieved during the third cycle of the UPR, the implementation phase of the mechanism has shown the intention of the State to comply with this recommendation. In 2020, the Mexican Government announced its decision to recognise the competence of the CED Committee, precisely in the terms suggested by the States that raised recommendations in this regard during the third cycle of the UPR. At the formal level, on 25 August 2020, the Government communicated to the Parliament its decision to move forward in this direction¹¹⁹.

On 2 October 2020, following the adoption of a Decree enacted by the Senate Chamber of the Parliament¹²⁰, the Mexican Ministry of Foreign Affairs sent a letter to the treaty section of the United Nations Office of Legal Affairs recognizing the competence of the CED Committee¹²¹. The State has established in its national public policy on human rights that recognising the competence of the CED Committee is a priority strategy to promote compliance with international human rights commitments and recommendations¹²².

The implementation of the recommendations received by Mexico to strengthen its actions against enforced disappearances does not end with the current ability for the CED Committee to receive and consider individual communications. For instance, this important step has laid fertile ground for the State to recognise the mandatory nature of the recommendations transmitted by the CED Committee as a result of the urgent action procedure regulated by Article 30 of the Convention¹²³. Likewise, the conditions have been favourable for the CED Committee to carry out its first working visit to the territory of the State in November 2021, thereby obtaining valuable information from different actors within civil society, State institutions and organisations of victims’ relatives¹²⁴. This, in turn, allowed the CED Committee to raise awareness of the seriousness of the situation and the need to adopt urgent measures, as well as to formulate timely and realistic recommendations to the State in this matter.

The UPR recommendations were part of a building-up process that led the State of Mexico to take this historic step in favour of the victims of enforced disappearances and their families. The Mexican case clearly shows that significant changes in human rights are often the result of sustained and coordinated efforts over time, developed by a diversity of actors that accompany the State in its

118 International Convention for the Protection of All Persons from Enforced Disappearance. Art. 31.

119 Secretaría de Gobernación de México. Oficio No. SG/UE/230/1337/20. 25 de agosto de 2020.

120 Cámara de Senadores del Congreso de la Unión. GACETA: LXIV/3PPO-1/111689. Available at: https://www.senado.gob.mx/64/gaceta_del_senado/documento/111689

121 United Nations. Reference: C.N.430.2020. TREATIES-IV.16 (Depositary Notification). 2 October 2020.

122 Secretaría de Gobernación de México. Programa Nacional de Derechos Humanos 2020-2024. P. 11.

123 Primera Sala de la Corte Suprema de Justicia. Amparo en Revisión No. 1077/2019. 16 de junio de 2021.

124 Committee on Enforced Disappearance. Informe del Comité contra la Desaparición Forzada sobre su visita a México en virtud del artículo 33 de la Convención. 12 April 2022. CED/C/R.9 (Findings).

duty to protect people. In particular, the advocacy work promoted by civil society and organisations of victims' relatives within the State stands out, together with the supervisory role of the CED Committee itself in the framework of Article 29 of the Convention¹²⁵, and the public awareness strategies advanced by the OHCHR field office (*ONU México*)¹²⁶. Each of these actions have successively insisted on the significance of Mexico's commitment to this change, building upon the progress already achieved by other actors at the moment when Mexico ratified the Convention back in 2008.

In this sense, the UPR has proven to be an instrument that is in tune with the most urgent demands of diverse actors and that contributes to placing these requirements within inter-state dialogues. In addition, the UPR shows itself to be a resource on which local stakeholders can rely to provide the final argument that drives the State to adopt the decision to promote change. In the Mexican case, the UPR was a fundamental piece to complete a puzzle that had been pending for many years. The tireless effort of stakeholders on the ground allowed them to see and take advantage of the new window of opportunity that the third cycle provided in this regard.

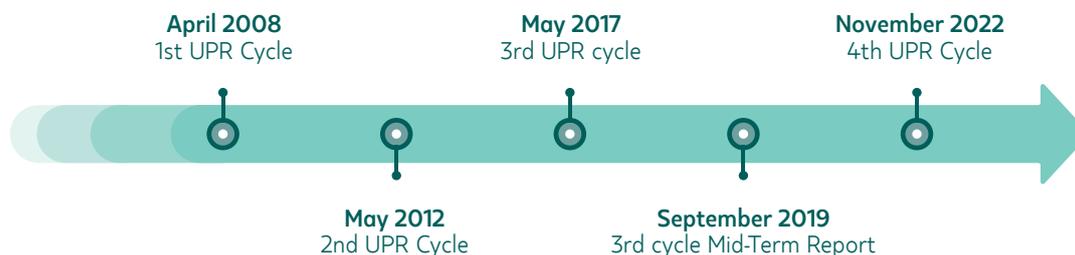
The Mexican case study provides evidence on the relevance of:

- *The UPR's capacity to insert itself in broader and complex ongoing processes to achieve significant changes concerning the promotion of human rights, adding value to sustained and coordinated efforts developed by a diversity of actors over time;*
- *The central role played by CSOs and other social movements such as organisations of victims' relatives to advocate for the adoption of concrete measures in the follow-up phase of the UPR;*
- *The positive and significant impact of human rights bodies such as the CED Committee and the OHCHR field office (ONU México) to raise awareness on these matters and work with the State and other stakeholders in moving the agenda forward.*

¹²⁵ Mexico has been reviewed by the CED Committee on two different occasions. For more information on this, please refer to the reports issued by the CED Committee after the examinations took place: "Concluding observations on the report submitted by Mexico under article 29, paragraph 1, of the Convention". CED/C/MEX/CO/1. 5 March 2015; and, "Follow-up observations on the additional information submitted by Mexico under article 29 (4) of the Convention". CED/C/MEX/FAI/1. 6 September 2019.

¹²⁶ For instance, in 2017, ONU México launched a public awareness campaign through which it brought together different experts, human rights activists, victim's relatives, international organisation staff, among others, who publicly asked the State to recognise the competence of the CED Committee to receive and consider individual communications.

Morocco: Promoting Youth agency through the UPR



The Moroccan National Human Rights Council (hereinafter “MCNDH” for its acronym in French) has developed a number of innovative measures to further enhance the impact of the UPR recommendations in Morocco. Particularly, the MCNDH has been working closely with key actors to advocate for the implementation of the third UPR cycle recommendations and to promote better engagement of the country with the mechanism in the future.

For instance, in 2019, as part of its work with Parliamentarians, the MCNDH organised a study day in coordination with the Chamber of Councillors to explore the different ways in which Parliamentarians can substantially contribute to tracking the implementation of UPR recommendations. The activity, which took place in the context of celebrating International Human Rights Day, congregated councillors, advisors, academics, experts and CSOs who gathered together to follow up and review official efforts developed by the State to implement the said recommendations, as well as to raise awareness and discuss alternatives to integrate the results of the UPR and other international human rights mechanisms in the domestic system¹²⁷. As result of this event, a report was elaborated describing the important role that the Parliament must play in implementing the UPR recommendations, in line with key messages that have been disseminated by the OHCHR and other organisations emphasising the privileged position that Parliamentarians held to transform the recommendations into concrete human rights measures¹²⁸.

An innovative approach that the MCNDH has adopted in relation to the dynamics of the UPR is to involve the youth. In particular, a key way to promote youth rights is through mainstreaming them in the UPR by using the existing reporting and monitoring tools to advocate for young people’s rights specifically.

In November 2021, with the support of the Canadian Embassy in Morocco, the MCNDH joined efforts with the United Nations Population Fund (hereinafter, “UNFPA”), and UPR Info to hold a training event called “Youth Participation in the Universal Periodic Review”. Over the course of two days, youths from two different regions of the country met with a group of experts who provided them with important information concerning the structure and functioning of the United Nations human rights system, and more specifically, the particularities and stages of the UPR process. For instance, they received information on how to draft a stakeholder’s report, which sources to consult to gather reliable national information, how to link the implementation of recommendations to the SDGs and the 2030 Agenda for Sustainable Development, etc. Similarly, details of the potentialities of the UPR to promote concrete changes in the field were shared with attendees¹²⁹.

127 Chamber of representatives. “Parliament’s contribution to tracking implementation of UPR recommendations”. 11 December 2019. Available at: <http://www.chambreconseillers.ma/ar/-توصيات-الاستعراض-الدوري-الشامل-التقرير-التركيبي-اليوم-الدراسي-حول-اسهام-البرلمان-في-تتبع-تتفيذ>

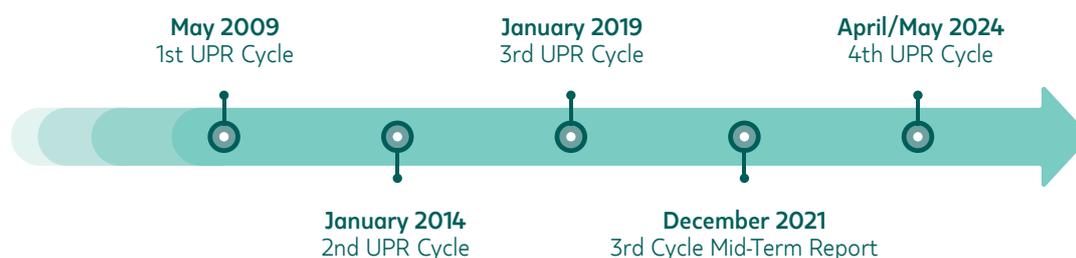
128 For more on this: OHCHR. “Contributions of parliaments to the work of the Human Rights Council and its universal periodic review”. 17 May 2018. A/HRC/38/25. You can also refer to: OHCHR. “The specific role of members of the parliament before-during-and after the review” Available at: https://www.ohchr.org/Documents/HRBodies/UPR/TIPs_Members_Parliament.pdf

129 For more on this: https://www.facebook.com/watch/live/?ref=watch_permalink&v=340364797897631

The achievements in Morocco have been influenced by:

- *The MCNDH and the parliament joining forces on the implementation phase of UPR recommendations, which is crucial due to the power Parliamentarians have to shape the success of this important phase of the UPR;*
- *The MCNDH acknowledging the importance of youth and engaging them at an early stage in their development in order to promote their participation and knowledge of the system, while in parallel empowering them and strengthening their agency as decision-makers;*
- *The UPR proving to be a mechanism with the capacity to raise awareness of structural issues among new generations.*

New Zealand: Taking action with a plan to eliminate racism



New Zealand's engagement with the UPR is also worth looking at. Both the Government and the New Zealand Human Rights Commission (hereinafter, "NZHRC") have been actively identifying new ways to improve the country's participation in each cycle. For instance, while the Government developed a series of national consultations with CSOs to gather relevant information that strengthens the national report submitted to the 3rd UPR cycle¹⁴⁰, the NZHRC conducted trainings with CSOs on the elaboration of stakeholders' reports; carried out some pre-sessions in different cities with participants from CSOs in order to provide them with additional tools that can be useful when preparing their own stakeholders reports and lobbying for the adoption of certain recommendations during the review¹⁴¹.

Similarly, both the Government and the NZHRC have submitted a mid-term report in follow up to the UPR third cycle recommendations for the first time¹⁴². It is noteworthy that both the Government and the NZHRC asked CSOs to provide feedback to their reports, despite the limitations that were in place because of the COVID-19 pandemic. The Government mid-term report was submitted in December 2021, and the NZHRC in February 2022.

¹⁴⁰ The New Zealand Government, along with the Human Rights Commission, held public events in 8 locations during February and March 2018. These events were in Wellington, Auckland, Kaitaia, Rotorua, Nelson, Christchurch, Dunedin, and Gisborne. For more information on dates, please visit: <http://www.apc.org.nz/pma/MFAT-UPR-invitation-Feb2018.pdf>

¹⁴¹ An In-Country Pre-Session was held on 26 October 2018 in Wellington. 13 NGOs and the Human Rights Commission gave detailed presentations on issues such as family violence, youth justice and structural discrimination. In addition, UPR Info assisted the NZHRC in this endeavour and, over one week conducted trainings with CSOs in Auckland, Christchurch and Wellington before moderating the In-Country Pre-session in Wellington. Over 70 people benefitted from these initiatives. For more information, please visit: <https://www.hrc.co.nz/our-work/international-reporting/universal-periodic-review>

¹⁴² To read the State's mid-term report please visit: <https://www.ohchr.org/en/hr-bodies/upr/upr-implementation> and to read the NZHRC mid-term report please go to: <https://www.ohchr.org/en/hr-bodies/upr/nhr-is-mid-term-reports>

Concerning the substantive part of the recommendations, it is possible to affirm that the UPR has been pivotal in starting relevant discussions around a diverse range of issues and in pushing the State to adopt measures to improve the human rights situation in its territory. One of the topics that has been constantly addressed during the review is the fight against racism and racial discrimination. Tackling this long-standing problem was of the utmost importance considering that New Zealand is a country with a very rich ethnic diversity.

During the two first cycles of the UPR, the State received at least 15 recommendations in this regard¹⁴³. While the intention of the recommending States when raising up this issue was probably correct, the way the recommendations ended up being framed did not give a clear indication on which direction New Zealand was specifically being asked to go. The said recommendations referred to general measures that should be taken by the State to combat and eradicate all forms of racism. However, this changed with the third cycle, when New Zealand received two concrete and action-oriented¹⁴⁴ recommendations suggesting the design and adoption of a national plan or strategy against racism, racial discrimination, xenophobia, hate crimes and other forms of intolerance. These recommendations were both supported by the State.

The formulation of these recommendations was shortly followed by a tragic event¹⁴⁵ in New Zealand that once again crystalised the urgent need to adopt stronger measures to actively fight against violent crimes based on race, ethnicity and religious beliefs. As emphasised by the NZHRC in its mid-term report *“the Christchurch terror attack highlighted several challenges for human rights in Aotearoa, including the extent to which our security and intelligence and enforcement agencies can keep communities safe in the face of the evolving nature of terrorism, and how to address racial discrimination and hate crimes more broadly”*¹⁴⁶.

The Government on New Zealand adopted different measures in the face of this situation¹⁴⁷. One of those measures was to create and implement a national plan of action to allow the State to adopt tangible steps to help eradicate everyday racism and discrimination¹⁴⁸. This decision coincided with the recommendations raised during the third UPR cycle concerning the fight against racial violence in New Zealand through a national strategy. Even though the circumstances at the time made evident the urgent need to directly address this issue, the UPR recommendations played a significant role in pushing for this decision to be adopted. The commitments made by the authorities at the international level when supporting the UPR recommendations encouraged the State to prioritise this issue in its agenda, particularly by providing a rationale to move forward based on New Zealand’s duty to fulfil its international human rights obligations.

The national action plan has not yet been finalised nor has it been launched. Nevertheless, important steps have already been taken in this respect. For example, the Government has secured funding for the development of the action plan through the 2021 official budget and a new team was established at the Ministry of Justice with the sole purpose of developing the plan¹⁴⁹. Similarly, the NZHRC has been actively coordinating with the government and supporting its efforts by leading a number of consultations with different actors across the country, to receive more insight on what type of ac-

143 In the first cycle of the UPR (2009), New Zealand received five recommendations from Algeria, Bangladesh, Malaysia, United Kingdom and Switzerland suggesting to take steps to combat racial discrimination. During the second cycle (2014) ten recommendations were made to the State by Tunisia, Bangladesh, Botswana, Togo and Côte d’Ivoire, to keep fighting against racism, hate speech and racially motivated crimes and violence.

144 In the third cycle, the States of Togo and Pakistan specifically recommended New Zealand to adopt a national strategy or national plan to fight against racism and other forms of racial discrimination and violence.

145 In March 2019, a terrorist attack was carried out against the Muslim community at two Mosques in Christchurch. There were 51 victims and the attack prompted the creation of a major public inquiry into New Zealand’s security agencies.

146 NZHRC mid-term report. February 2022. P. 3. Available at: <https://www.ohchr.org/en/hr-bodies/upr/nhr-is-mid-term-reports>

147 In April 2019, a Royal Commission was established to investigate whether public bodies had done all they could to prevent such an attack. The Royal Commission report was released to the public in December 2020 and contained recommendations centred on improving New Zealand’s counter-terrorism effort and firearms licensing system, supporting victims and their families, and responding to New Zealand’s increasingly diverse population.

148 Labour 2020. “Our manifesto to keep New Zealand moving”. P. 24. https://drive.google.com/file/d/13uhcVrn8HUXEoWoPQgkJYjHX_d_Za-O0/view

149 New Zealand mid-term report. December 2021. Para. 35.

tions must be adopted by the State as part of this plan¹⁵⁰. For instance, with this in view, the NZHRC created a website called “Against Racism” as part of an engagement effort led by Race Relations Commissioner Meng Foon to receive feedback from interested actors. The window for submissions closed in November 2021¹⁵¹. This consultative approach has allowed the NZHRC to work in partnership with Māori and other ethnic minority communities to make sure that the plan gets to reflect their vision, values and experiences and that it proposes measures able to fulfil the rights of indigenous peoples¹⁵².

The New Zealand example is relevant in different ways. It provides concrete proof of how the formulation of SMART¹⁵³ recommendations can better orientate actions on the ground and why they should be prioritised in face of general measures. Second, the example represents an indicator of the ability of the UPR process to get governments to move in a certain direction and to structure their human rights agenda based on the commitments adopted at the international level. Lastly, it shows that the UPR can significantly contribute to tackle structural problems and render transformative changes to the benefit of communities.

The developments in New Zealand provide concrete proof of:

- *The importance for States to formulate SMART recommendations in the framework of the UPR to tackle urgent social problems;*
- *The ability of the UPR process to encourage Governments to move in a certain direction and to structure their human rights agenda based on the commitments adopted at the international level;*
- *The meaningful role played by NHRIs in relation to the UPR to contribute to the States efforts to implement UPR recommendations, and by engaging CSOs and other actors in a national dialogue from which transformative changes can emerge.*

“

“Civil Society organizations are aware of the UPR and engage with the mechanism by sending stakeholders reports. They rely on the UPR to strengthen their advocacy work at the local level. UPR recommendations are used as a rationale to push the State to move forward concerning certain issues”.

Asociación por los Derechos Civiles, Argentina

150 NZHRC mid-term report. February 2022. P. 7. Available at: <https://www.ohchr.org/en/hr-bodies/upr/nhr-is-mid-term-reports>

151 NZHRC. National Action Plan Against Racism. Available at: <https://againstracism.hrc.co.nz/>

152 NZHRC mid-term report. February 2022. P. 7. Available at: <https://www.ohchr.org/en/hr-bodies/upr/nhr-is-mid-term-reports>

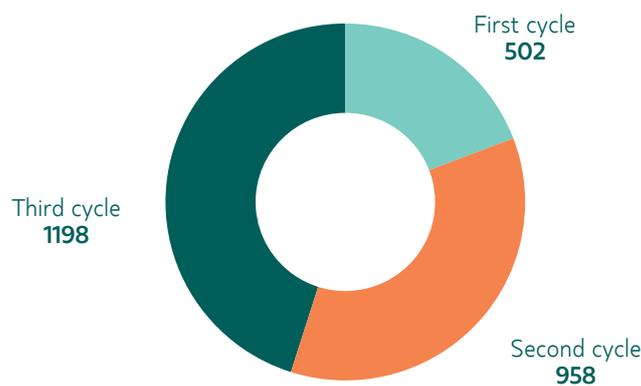
153 Recommendations are considered to be SMART when they are (i) Specific, (ii) Measurable, (iii) Achievable, (iv) Relevant, and (v) Time-bound. For more information: UPR Info. A Guide for Recommending States at the UPR. 2015.

Pakistan: A “glimmer of hope” for the transgender community



UPR recommendations related to the human rights of LGBTIQ+ community have gained outstanding prominence from one cycle to the other. During the first cycle of the review, a total of 502 recommendations were formulated in this regard. This number raised up to 958 recommendations in the second cycle, and, at the time of elaborating this report, around 1,198 have been proposed concerning this matter. This means that, from the first review until the most recent one, the UPR has seen an increase of 140%. These numbers reveal the most substantial shift in attention for the rights of transgender people, with UPR recommendations seeing an increase of more than 1,000% from the first to the third cycle¹⁵⁴.

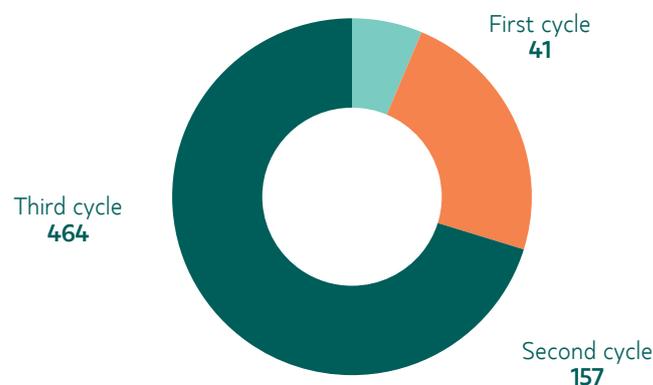
Graphic n° 9: Number of recommendations issued on human rights of LGBTIQ+ community from the first to the third UPR cycles



Source: UPR Info's Database

¹⁵⁴ In the first UPR cycle, a total of 41 recommendations referred to transgender rights. This number rose to 157 in the second cycle. Up to the 39th session of the 3rd cycle, more than 464 recommendations have been suggested in this matter.

Graphic n° 10: Number of recommendations issued on transgender rights from the first to the third UPR cycles



Source: UPR Info's Database

Transgender people, meaning those whose gender identity is different than that which they were assigned at birth, face concerning levels of violence around the world. They are victims of discrimination and other pervasive conducts from very early stages of their lives, and normally experience exclusion and marginalisation at different levels, starting with their most inner circles to areas of social interaction and development¹⁵⁵. By addressing these delicate and urgent issues, the UPR constitutes a privileged platform to assess the degree to which States are fulfilling their obligations concerning transgender communities and provide cooperation and assistance.

The State of Pakistan received its first UPR recommendations in relation to LGBTIQ+ rights in the third cycle of the review process. Even when CSOs had been raising awareness on the need to tackle the problem of discrimination against this community through the adoption of recommendations from the first cycle of the review¹⁵⁶, this did not happen previously. In spite of this, Pakistan had been setting in place concrete measures to address the situation of transgender people within its territory, and it was precisely the seeds planted at the local level that opened the door to the possibility of having more specific actions being requested through UPR recommendations, therefore increasing the chances of implementation and monitoring.

For instance, in 2009, the Supreme Court of Pakistan ruled that the Federal and Provincial Governments must protect transgender people under the State Constitution, noting that, among other things, they were entitled to have their “third gender” recognised as a category in their identity cards¹⁵⁷. Similarly, in 2012, the same Court made another ruling that allowed transgender people to participate for the first time both as voters and candidates in Pakistan 2013 elections¹⁵⁸. In 2017, the transgender population was documented for the first time in Pakistan, by including the category of

155 United Nations Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity. Protection against violence and discrimination based on sexual orientation and gender identity. 12 July 2018. A/73/152

156 See for instance: Pakistan CSOs Coalition contribution to the second Universal Periodic Review of Pakistan by the UN Human Rights Council. Available at: https://www.upr-info.org/sites/default/files/documents/2013-10/js7_upr_pak_s14_2012_jointsubmission7_e.pdf. International Gay and Lesbian Human Rights Commission. Human Rights and Transgender People in Pakistan. o the UN Human Rights Council for its 2008 Universal Periodic Review on February 6, 2008. Available at: <https://www.upr-info.org/sites/default/files/documents/2013-10/iglhropakupsr22008internationalgayandlesbianhumanrightscommissionuprsubmission.pdf> And: International Gay and Association. Submission in the UPR review of: Pakistan. Available at: <https://www.upr-info.org/sites/default/files/documents/2013-10/ilgapakupsr22008internationallesbianandgayassociationuprsubmissionjoint.pdf>

157 Supreme Court of Pakistan, 2009. Mohammad Aslam Khaki v. SSP (Operations) Rawalpindi Constitution, Petition No. 43

158 Kaleidoscope Australia Human Rights Foundation. Submission to the UN Universal Periodic Review regarding the protection of the rights of LGBTI persons in Pakistan. March 2017. Available at: https://www.upr-info.org/sites/default/files/documents/2017-10/khrf_upr28_pak_e_main.pdf

“gender identity” as part of the national census¹⁵⁹. These measures led to the draft of the 2017 Transgender Persons Bill which aimed at reducing some fundamental problems faced by the community¹⁶⁰.

Out of the seven recommendations received by the Asian State in the third cycle, five were noted. The only two UPR recommendations that were supported by the State, were those raised by the States of Albania¹⁶¹ and Spain¹⁶², specifically suggesting the adoption of measures in relation to the 2017 Transgender persons Bill. In other words, the State showed reluctance to support recommendations that asked for general measures to be implemented concerning the LGBTIQ+ community in Pakistan but was keen to work with those that aligned with the mechanisms that had already been set in motion at the national level.

After the review, the Parliament adopted the Transgender Persons (Protection of Rights) Act, 2018 which is anti-discriminatory in nature and prohibits harassment against the transgender population. In particular, the law accords the right of transgender people to be recognised according to their self-perceived gender identity, outlining their right to have such an identity being registered by the civil status and identification authorities (article 3). In addition, the Transgender Persons Act lists a number of rights that should be guaranteed by the State to the transgender community, such as the right to education, employment and healthcare free of any type of discrimination (article 4), and the right to inherit, to vote and to hold public office (articles 7, 10, and 11), to name a few¹⁶³.

Following the adoption of the law, a committee for its implementation was set up by the Government, who also entrusted the Ministry of Human Rights with the duty to draft specific rules under the Act¹⁶⁴. In observance of these obligations, the Ministry of Human Rights has implemented various actions, with the development of consultations and meetings with CSOs and transgender advocates to receive feedback on the implementation of the 2018 Act, and the creation of the National Committee on transgender persons, standing out in particular. The National Implementation Committee is composed by 13 members and led by Ms. Aisha Mughal, transgender expert specialized in transgender rights, who serves as the coordinator of the said Committee. In addition of these, other measures on research, raise of awareness, and policies within social services are being implemented as a consequence of the 2018 Act¹⁶⁵.

This example provides evidence on the capacity of the UPR to raise awareness and encourage positive changes on even the most sensitive and urgent matters. The power of the mechanism to support national advocacy and to adapt itself from cycle to cycle in order to give room for timely recommendations to be raised is one of the virtues of the UPR. Used in a wise manner by States and other stakeholders, the UPR can turn into a vehicle for transformative change.

159 Pakistan Bureau of Statistics, Population and Housing Report. 2017.
Available at: https://www.pbs.gov.pk/sites/default/files/population_census/nrcpr/NCR%20Pakistan.pdf

160 UNCT Mid-term Review of Pakistan's UPR Submission, January 2020. P. 7.

161 The recommendation made by Albania went as follows: Ensure that the 2017 law, which is presently being reviewed, on the recognition of the rights of intersex and transgender persons pays the necessary attention to both transgender women and men.

162 The recommendation made by Spain went as follows: Rapidly adopt and implement the two draft bills recently tabled in the National Assembly to ensure the rights of transgender persons

163 To read the law in detail please visit: https://na.gov.pk/uploads/documents/1526547582_234.pdf

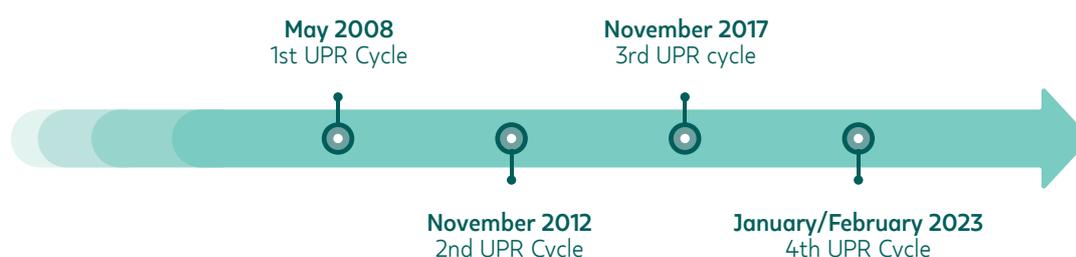
164 UNCT Mid-term Review of Pakistan's UPR Submission, January 2020. P. 4-5.

165 Ministry of Human Rights of Pakistan. Initiatives taken for transgender rights. 2021.
Available at: <http://www.mohr.gov.pk/SiteImage/Misc/files/initiativesontransgenderrights.pdf>

The improvement in the rights of transgender people in Pakistan can be attributed by the following:

- *The UPR seizing the opportunity presented by newly introduced legislation to recommend improvements and coax the State into positive action, thereby using the State's own progress as a starting point for real change;*
- *The crucial importance of involving transgender advocates and CSOs in shaping the implementation of recommendations in this area;*
- *Embracing the UPR's ability to respond to contemporary, emerging, and sensitive issues within a State.*

Peru: A measure of inclusion for people with disabilities



The rights of people with disabilities (hereinafter "PWD") have gained full recognition at the international level very recently when compared to other vulnerable groups such as women, children, or migrant workers. The UN Convention on the Rights of Persons with Disabilities was adopted in 2006 and entered into force in 2008 proposing a comprehensive approach to the situation of PWD that States worldwide are starting to follow as well.

The creation of the UPR mechanism and its first cycle basically overlapped with both the adoption of the UN Convention and its entry into force. Therefore, the UPR represented a great opportunity to start raising awareness on these new human rights standards. The platform enabled by the UPR was useful to start assessing the degree to which States had been guaranteeing the rights of PWD at the local level, as such serving as an accurate thermometer of the main existing obstacles to move forward this agenda and what needed to be recommended to overcome them.

The case of Peru is particularly illustrative of how UPR recommendations can be tailored to enhance legislation that appears to meet most of the international standards applicable to the rights of PWD. During the second cycle of the UPR, Peru received five recommendations through which the Andean country was advised to enhance its efforts to incorporate the provisions of the UN Convention into its current legal framework. Peru supported all of these recommendations, and, by December 2012, the Parliament approved Law No. 29973, named "General Law on Persons with Disabilities"¹⁶⁶.

¹⁶⁶ Ley General de la Persona con Discapacidad. Available at: <https://www.mimp.gob.pe/webs/mimp/herramientas-recursos-violencia/contenedor-dgcvg-recursos/contenidos/Legislacion/Ley-general-de-la-Persona-con-Discapacidad-29973.pdf>

This law represented a legal milestone. Not only because it would benefit the more than 3 million PWD living in the country (10% of the total population)¹⁶⁷, but it also adopted the social model on disabilities that had been crystallised in the UN Convention, meaning that disabilities moved from being perceived as an inherent deficiency that some people suffered, to being understood as the interaction of existing social barriers, with some physical or mental conditions experienced by PWD that hinder their equal participation in society¹⁶⁸. With this shift, States needed to adopt measures to fix those barriers, instead of directing their attention to PWD themselves.

Nevertheless, the adoption of this legislation was not accompanied by other legal reforms concerning the regulation of civil rights, and hence its impact fell short. CSOs submitted relevant information to the HRC in the framework of the third round of the UPR¹⁶⁹ shedding light on the legal amendments that needed to be put in place in order to guarantee full recognition of the legal capacity of PWD. For instance, the “*Mesa de Discapacidad y Derechos*” a CSO Coalition composed of 17 organisations working on the promotion of PWD rights highlighted that the Civil Code contained regulations that were affecting the lives of around of 8,000 PWD who were unable to make legal decisions such as signing a contract or getting married because of the existing restrictions on their right to legal capacity¹⁷⁰. In light of this, the CSO Coalition requested recommending States raise the need to conduct a legal reform of the Civil Code as part of their UPR recommendations.

As an outcome of the review, the recommendations made by the States of Costa Rica and Israel specifically suggest the Peruvian State to conduct such a reform. Both of these recommendations were supported.

In 2018, the Government passed Legislative Decree No. 1384 which recognizes and sets the rules for the exercise of the right to legal capacity of PWD under equal conditions¹⁷¹. The Decree modified article 3 of the Civil Code so it would expressly state that all Peruvians have legal capacity to enjoy and exercise their rights, underlining that PWD are also entitled to this right in all aspects of their lives. Article 45 of the Civil Code was also reformed to recognize the system of safeguards as reasonable adjustments to which PWD can resort to express their will and, therefore, exercise their right to legal capacity free of discrimination. In the face of this, the possibility of imposing a guardianship on PWD was ruled out.

With this major achievement Peru became the first country in the world to develop a substantial legal reform to recognize and protect the legal capacity of PWD¹⁷². The reform was welcomed both by national and international human rights bodies¹⁷³ who praised it for being a true measure of social inclusion and participation of PWD, who had been given the possibility to live an independent life.

The quest for the meaningful inclusion of PWD is not a simple task, thus it cannot be fully achieved by the adoption of a single legislative reform. However, the progress so far accomplished is remarkable as it sets solid basis for more ambitious measures to be implemented in the near future. The UPR allows participatory processes to develop, and it helps to shape innovative but realistic measures that can guide the next steps of States to guarantee a more inclusive society.

167 Instituto Nacional de Estadística e Informática – INEI. Perfil Sociodemográfico de la Población con Discapacidad, 2017. P. 29. Available at: https://www.inei.gob.pe/media/MenuRecursivo/publicaciones_digitales/Est/Lib1675/libro.pdf

168 Article 1 of the Convention on the Rights of Persons with Disabilities and article 2 of the Peruvian General Law on Persons with Disabilities.

169 See, for example, reports submitted by CNDDHH – Coordinadora Nacional de Derechos Humanos, and Human Rights Watch. Available at: <https://www.ohchr.org/en/hr-bodies/upr/upr-peru-stakeholders-info-s28>

170 Mesa de Discapacidad y Derechos. Examen Periódico Universal – EPU. Situación de los Derechos Humanos de las Personas con Discapacidad en el Perú (Joint Submission No. 4). Parr. 4.2. Available at: https://www.upr-info.org/sites/default/files/documents/2017-10/js4_upr28_per_s_main.pdf

171 Decreto Legislativo 1384 que reconoce y regula la capacidad jurídica de las personas con discapacidad en igualdad de condiciones. Available at: https://cdn.www.gob.pe/uploads/document/file/192139/DL_1384.pdf

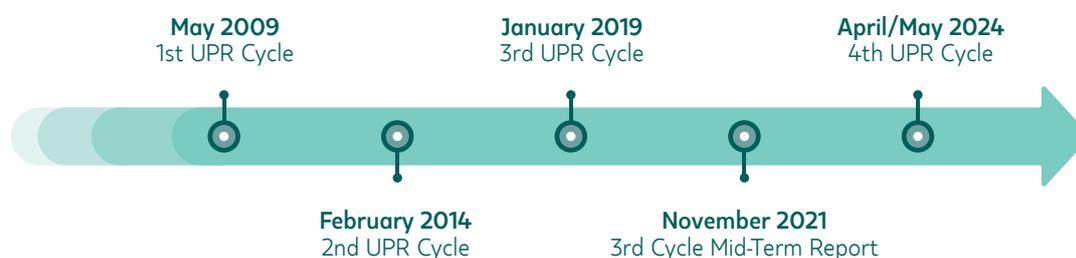
172 SODIS. Guía práctica: Promoción de redes de apoyo para la toma de decisiones y ejercicio de la capacidad jurídica de personas con discapacidad. June, 2021. P. 6.

173 See for instance: OHCHR. Peru: Disability reforms mark a milestone and a way forward, says UN expert. September 4, 2018. Available at: <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=23501&LangID=S> DEMENTES. Reforma histórica. Personas con Discapacidad recuperan autonomía para ejercer sus derechos. September 4, 2018. Available at: <https://dementes.org.pe/novedades/reforma-historica-personas-con-discapacidad-recuperan-autonomia-para-ejercer-sus-derechos/> Francisco Mamani. Decreto Legislativo No. 1384: Un importante paso para el ejercicio de la capacidad jurídica de las personas con discapacidad. September 14, 2018. Available at: <https://idehpucp.pucp.edu.pe/notas-informativas/decreto-legislativo-no-1384-un-importante-paso-para-el-ejercicio-de-la-capacidad-juridica-de-las-personas-con-discapacidad/>

Peru's steps forward can be seen as evidence of:

- *The importance of building strong CSO coalitions, which have been shown as vital in shaping the scope and content of UPR recommendations handed to the State under review;*
- *The capacity of the UPR to keep up to date with the most current demands and issues under international human rights law, and to ground these discussions in the local needs of each State;*
- *The value of the UPR recommendations to plant small seeds on the ground, such as the enactment of concrete legislation, that has the potential to integrate broader reformative processes and thus help bring about structural changes in favour of communities in need of further protection.*

Slovakia: Using the UN system as a tool against torture



It is normally said that the recommendations received by States from the UN human rights mechanisms and procedures tend to overlap in their scope. By being a universal system, the UN platform provides States and other stakeholders with an opportunity to resort to a variety of recommendations that mutually reinforce and obtain guidance on which paths to follow in order to improve the human rights situation in their countries. In other words, where some might see an overlapping of measures, there in fact lies an important opportunity to articulate different cogs to set the machinery of change into motion.

The case of Slovakia is a good example of how these recommendations, including those arising from the UPR, can interact in favour of pushing forward concrete progress. The Slovak government has paid especial attention to implementing the recommendations that have come from different human rights mechanisms. At times, these recommendations have been prioritised within the agenda of the State.

One of the recommendations that has partially benefited from this approach is the process of ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter "OP-CAT"). Since its first UPR cycle, back in 2009, Slovakia was recommended by five States to ratify the treaty¹⁷⁴. This number slightly raised to a total of seven both

¹⁷⁴ The United Kingdom, Azerbaijan, Argentina, Croatia and Czechia formulated UPR recommendations to Slovakia in this sense.

in the second UPR cycle and third cycle¹⁷⁵. In addition, treaty bodies such as the CESCR, the CRC and the Committee against Torture have underlined this issue by encouraging the State to adhere to the OP-CAT¹⁷⁶. Out of the UN system, the Council of Europe has stressed the need for Slovakia to accede the treaty and set up a national preventive mechanism in compliance with the provisions of the OP-CAT and the guidelines established by the UN Subcommittee on Prevention of Torture¹⁷⁷. The Council also requested that the State share information about any progress achieved in relation to this process¹⁷⁸.

Although, as of 2018 the State has adopted some steps to move forward in this ratification process, its commitment to implement all of these recommendations has improved after the third UPR cycle. In 2020, the Slovak Ministry of Justice proposed a draft law to modify the Act No. 564/2001 Coll in order to entrust the competence to perform as the national preventive mechanism to the Public Defender of Rights¹⁷⁹, while keeping the possibility of cooperation in the fulfilment of its mandate with the Commissioner for Children or the Commissioner for Persons with Disabilities¹⁸⁰.

As proposed by article I.2 of the draft law, as the national preventive mechanism, the Public Defender would have the power to make systematic visits to places where people deprived of their liberty are being held in custody in order to guarantee that there is sufficient protection from torture, cruel, inhuman, degrading or punishing treatment and other ill-treatment. If a violation is identified, the Public Defender would report the situation to the jurisdiction of the relevant public prosecutor's office or the competent court. By giving these powers to the Public Defender of Rights, the State would make sure that its mandate is aligned with the standards of the OP-CAT¹⁸¹.

The Slovak Ministry of Justice received comments on the draft law from the Commissioner for Persons with Disabilities, who holds the mandate to carry out visits to facilities where persons with disabilities and seniors may be located in restriction of their liberty. At the time of writing, the draft legislation has been sent to the Parliament where the phase of comments procedures is pending completion. After this, the Parliament, provided that the requirements are met, should enact the new legislation, paving the way for the ratification process of the OP-CAT to be finalised¹⁸².

The Slovak National Centre for Human Rights (hereinafter "SNCHR") has been one of the stakeholders advocating for the formulation of UPR recommendations that enhance the State ratification of the OP-CAT. During the third UPR cycle, the institution emphasised the urgency of intensify the efforts to complete this procedure and to establish a national preventive mechanism that is ensured sufficient resources and capacity to fulfil its mandate in an independent and effective manner¹⁸³.

In addition to this effort, the SNCHR has advocated for the adoption of other human rights measures at the national level, resorting for this purpose to the recommendations received by the State from international human rights mechanisms. This approach has strategically been decided in light of the special attention that the State gives to this type of recommendations. For this, the SNCHR has worked on the elaboration of an internal database where the institution permanently tracks the

175 Czechia, Azerbaijan, Chile, Tunisia, Hungary, Estonia, and Denmark raised these UPR recommendations during the second UPR Cycle, while the States of Switzerland, Senegal, Montenegro, Croatia, Czechia, Azerbaijan, and Denmark touched upon this issue in the 3rd UPR cycle.

176 Committee against Torture. Consideration of reports submitted by States parties under article 19 of the Convention. CAT/C/SVK/CO/2. 17 December 2009. Parr. 22. Committee against Torture. Concluding observations on the third periodic report of Slovakia. CAT/C/SVK/CO/3. 8 September 2015. Parr. 21. CESCR. Concluding observations on the third periodic report of Slovakia. E/C.12/SVK/CO/3. 14 November 2019. Parr. 62. CRC. Concluding observations on the combined third to fifth periodic reports of Slovakia. CRC/C/SVK/CO/3-5. Parr. 62.

177 Council of Europe. Report to the Slovak Government on the visit to the Slovak Republic carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. 19 to 28 March 2018. P. 11. Available at: <https://rm.coe.int/168094fd71>

178 Ibid.

179 According to the Slovak Constitution, the Public Defender of Rights is an independent body for the protection of fundamental rights and freedoms.

180 Slovak Republic. Current status of recommendations addressed to the Slovak Republic in the 3rd cycle of Universal Periodic Review of the UN Human Rights Council submitted at the halfway point of the assessment cycle. November 2021. P. 3.

181 Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Articles 3, 19 and 20.

182 In March 2022, the term of the previous Public Defender of Rights ended. The National Council of Slovakia are, at the time of writing, working to elect her successor. This will allow the process of determining a National Preventive Mechanism to move forward.

183 Slovak National Centre for Human Rights. Individual Submission. Third Review of the Slovak Republic under the Universal Periodic Review of the United Nations Human Rights Council. P. 4. Available at: https://www.upr-info.org/sites/default/files/documents/2019-01/snchr_snspl_upr32_svk_e_main.pdf

recommendations received by Slovakia from international forums in order to get useful information that can later be used to support their advocacy activities. For instance, the SNCHR has referred to UPR recommendations and those raised by UN Committees as the CESCR and the CEDAW to put together a policy paper on sexual and reproductive rights that has been circulated with the Parliament, the Government and CSOs to raise awareness on the need to move forward in this regard¹⁸⁴.

The UPR mechanism was born in 2006 to integrate a broader and more solid universal system of human rights protection. The recommendations of the review strengthen the work of other bodies and procedures of the UN and are simultaneously being strengthened by the recommendations that arise from those platforms. By enhancing their capacity to work with different mechanisms at the same time, both the States and other stakeholders have a greater chance to implement measures that are better adjusted to concrete societal needs and therefore have a greater impact on the ground.

The achievement of Slovakia in moving closer towards ratification of OPCAT acts as proof of the following:

- *UPR recommendations are particularly potent when they complement and add to the recommendations made by other human rights bodies, and vice versa;*
- *Progressively increasing the pressure on the States by reiterating recommendations throughout the various cycles is an extremely effective tactic for effecting real change.*

“

“If a recommendation comes from a UPR it will help the situation. It is a mechanism that is seen as quite strong by the Government. As it has very regular cycles, the Government feels that “it has to do something” because the review will restart”.

Slovak National Centre for Human Rights

¹⁸⁴ See for example: Slovak National Centre for Human Rights. Individual Submission. Alternative Report on the Implementation of the European Social Charter, Para. 20. Available at: https://www.snslp.sk/wp-content/uploads/European-Social-Charter-Submission_SNCHR.pdf

United Kingdom: Fundamental measures to advance children's rights



The United Kingdom was one of the very first countries to ever be reviewed in the UPR. This might have played a role in the fact that the country ended up receiving only 28 UPR recommendations, from which it supported 22. While nine of these recommendations suggested the adoption of measures to protect and promote the rights of the child, only six received the support of the State, and from this small sample, two specifically referred to the need to tackle the high incarceration rate of children in the country¹⁸⁵, and the problem of corporal punishment and other forms of violence against children¹⁸⁶.

Numbers changed drastically in the third round of the mechanism, where the UK received a total of 46 UPR recommendations in this regard. In addition to the topics already addressed as of the first UPR cycle, more emphasis was given to the necessity to implement actions to reduce domestic and sexual violence against children and align the national legal framework with international human rights standards. Although a large majority of these recommendations were noted by the State (76%), this might be attributed to the organic structure of the country itself¹⁸⁷ and not to a lack of will to assume international commitments in relation to human rights, as the concrete progress achieved on the ground regarding those recommendations would seem to prove.

For instance, in June 2018, the UK Government became one of the last members of the Council of Europe to ratify the 2007 Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse ("Lanzarote Convention")¹⁸⁸ which requires State parties to adopt a set of measures in order to prevent sexual violence against children, protect victims and hold perpetrators of these crimes accountable. The UK had not only received the recommendation to ratify this treaty in the context of the UPR¹⁸⁹, but as part of the concluding observations of the CRC on the fifth periodic report submitted by the State¹⁹⁰.

In 2019, for the first time, the UK submitted a comprehensive report describing its existing legal framework to protect children from all types of sexual offences and presenting a general overview of the range of measures implemented by its four nations in terms of prevention, protection and prosecution, according to the legal standards set forth by the Lanzarote Convention¹⁹¹.

¹⁸⁵ Recommendation formulated by Algeria

¹⁸⁶ Recommendation formulated by Italy

¹⁸⁷ While the UK has a central government and legislature in Westminster, there are separate governments and legislatures in Scotland, Wales and Northern Ireland. Certain matters are devolved to these bodies, meaning that they can make laws in those areas. Other matters are reserved and therefore within the competency of the central Westminster Parliament. As a result, the UK Government cannot accept UPR recommendations on a UK-wide basis for matters which are not explicitly reserved to be within their competency.

¹⁸⁸ For a full list of the States Parties to the Lanzarote Convention please visit: <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatynum=201>

¹⁸⁹ Recommendation formulated by Slovenia.

¹⁹⁰ Committee on the Rights of the Child. Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland. CRC/C/GBR/CO/5. 12 July 2016. Parr. 45.

¹⁹¹ United Kingdom. Replies to general overview questionnaire. Lanzarote Convention. Registered by the Secretariat on 6 January 2020. Available at: <https://rm.coe.int/united-kingdom-replies-to-the-general-overview-questionnaire/16809981ec>

The protection of the rights of children has also been strengthened as a consequence of some legislative measures adopted by Scotland between 2019 and 2020. First, in 2019, the Scottish Parliament unanimously passed a new legislation raising the minimum age of criminal responsibility from 8 to 12 years. Under the new “Age of Criminal Responsibility (Scotland) Act” a restriction was set in place prohibiting the charge or arrest of children younger than 12.

Addressing the situation of children being charged with criminal offences and bringing about significant changes in this regard had been a long-standing demand within the UPR. Nevertheless, the countries of the UK had shown their reluctance to adopt legal reforms to increase the age of criminal liability in their jurisdictions. Mid-way after the second UPR cycle, the UK reported that instead of moving in this direction, countries would continue to use custody for young people as an option of last resort applied only for exceptional cases¹⁹². In spite of this daunting scenario, CSOs brought their demands to the table of the third UPR cycle, submitting information through individual¹⁹³ and collective reports¹⁹⁴ where they described with concrete examples the worrying consequences of maintaining such a low age for criminal liability within the State.

Even though this shift in the legislation only applies in the Scottish jurisdiction, its impact is still positive. In its mid-term report for the third UPR round, the UK recognized that this change would avoid children being “stigmatised from being labelled as an offender at such a young and vulnerable age, which will improve their life chances”¹⁹⁵ which demonstrates, to a certain extent, a change in the UK’s approach towards this issue. In addition, the initial step forward adopted by Scotland might have a ripple effect on other countries of the State where the age of criminal responsibility is also considered to be below the international standards¹⁹⁶.

A second legislative measure adopted by the Scottish Parliament to promote children’s rights has been the approval of the “Children (Equal Protection from Assault) (Scotland) Act 2019”¹⁹⁷. This Act prohibits any sort of corporal punishment against children in domestic settings, as it removes the legal defence that allowed parents to punish their children through physical abuse from the “Criminal Justice (Scotland) Act”. In other words, the new Act reduced the protection adults received from all forms of assault on children¹⁹⁸. The UK has reported this legal amendment as an example of implementation of UPR recommendations, despite the fact that the law is only binding in Scottish territory¹⁹⁹.

The promotion of children’s rights has been at the top of the priorities of the UPR mechanism. The process has contributed to raising awareness of a variety of issues that could hinder the well-being and development of children. Emphasis has been given to the necessity to adopt measures to protect children from sexual and physical violence, human trafficking, poverty, torture, among other grave risks that threaten children’s lives and integrity. The practices hereby described constitute evidence of the many faces that violence can have in relation to children and the actions States can implement to guarantee their protection. In this scenario, the UPR appears as a useful mechanism to underline the international obligations that are behind the recommendations received by States, therefore emphasising the necessity to respond to the actions suggested by recommending States, even if they were part of recommendations noted by States under review, as in this particular case.

192 United Nations Universal Periodic Review Mid Term Report of the United Kingdom of Great Britain and Northern Ireland, and the British Overseas Territories, and Crown Dependencies (2014). P. 115, 126 and 127.

193 The Howard League for Penal Reform. to the Office of the United Nations High Commissioner for Human Rights (OHCHR). September 2016.

194 Joint Submission 11. Submission by the Children’s Rights Alliance for England, Together (Scottish Alliance for Children’s Rights) and the Wales UNCRC Monitoring Group.

195 United Kingdom, British Overseas Territories and Crown Dependencies. Universal Periodic Review – Mid Term Report. 2020. P. 257.

196 In England and Wales, the age of criminal responsibility is 10 as per S.50 of the Children and Young Persons Act 1933. Available at: <https://www.legislation.gov.uk/ukpga/Geo5/23-24/12/section/50>. In Northern Ireland, the age of criminal responsibility is also 10 as per article 3 of The Criminal Justice (Children) (Northern Ireland) Order 1998. Available at: <https://www.legislation.gov.uk/nisi/1998/1504/article/3>

197 Available at: <https://www.legislation.gov.uk/asp/2019/16/notes>

198 Children 1st. On 7 November 2020 Scots law changed to make it clear that children in Scotland can no longer be physically punished. Available at: <https://www.children1st.org.uk/who-we-are/speaking-up-for-scotlands-children/equal-protection-information-for-families-about-changes-to-the-law/>

199 United Kingdom, British Overseas Territories and Crown Dependencies. Universal Periodic Review – Mid Term Report. 2020. P. 62.

The progress that has been observed in the UK has been shaped by the following factors:

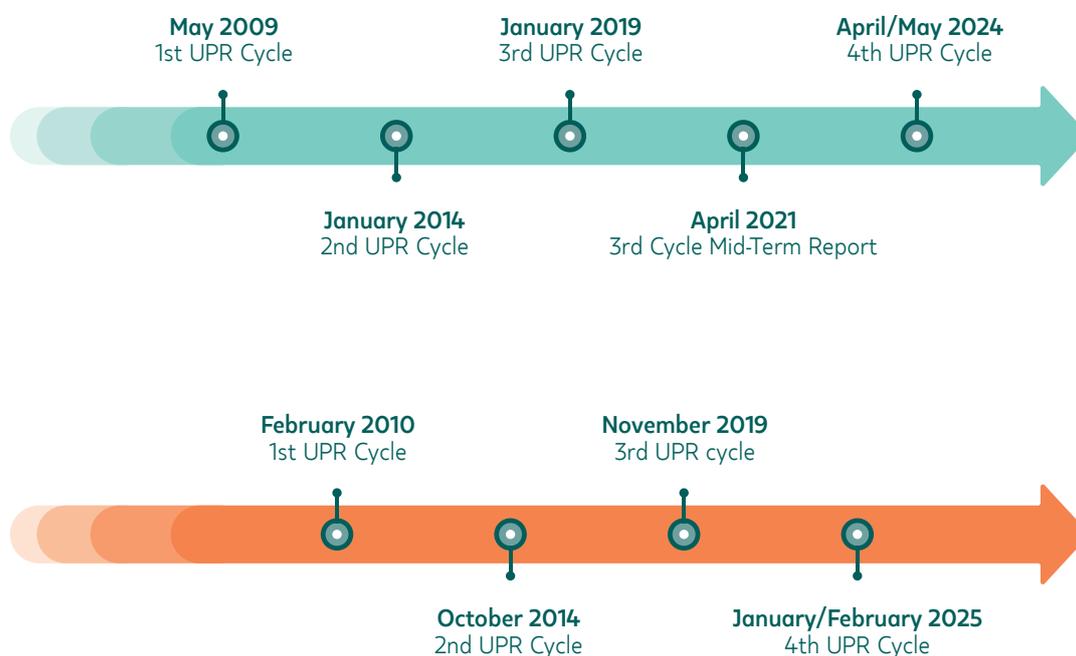
- *The capacity of the UPR to truly be a universal mechanism, meaning that it has the power to adapt to the different contexts of States worldwide and still propose recommendations that are accurately adjusted to each country reality;*
- *The reiteration of recommendations on urgent matters, even though they had been noted in previous cycles;*
- *The cross-fertilisation between recommendations arising from the UPR and recommendations made along the same lines by other international institutions, such as the Committee on the Rights of the Child and the Council of Europe, consolidating their importance and sense of urgency in the eyes of the State.*

“

“An important aspect of the UPR is that you’ll have a State representative make certain commitments internationally in front of the Human Rights Council, the fact that is documented, the fact that the State puts on record that it is accepting certain recommendations, that is a really important accountability aspect.”

New Zealand Human Rights Commission

Uruguay and Bolivia: meaningful steps towards a regional monitoring system



The participation of the State of Uruguay during the three cycles of the UPR has been increasingly active. Not only has the Latin-American country formulated more than 1,500 recommendations to the date of elaboration of this report, but it has also engaged with the mechanism at different levels, becoming, for example, one of the very few States that has submitted a mid-term report for each of the UPR cycles.

The implementation of the recommendations received has also represented an important objective for the State. In 2016, the Government approved Decree No 358/016, through which it established the National Mechanism for the Elaboration of Reports and Monitoring of Recommendations. Under the leadership of the Ministry of Foreign Affairs, the Mechanism congregates a total of 32 national and regional institutions that work together on the elaboration of reports required by the United Nations Treaty Bodies, the Special Procedures, and the UPR, as well as the implementation of the recommendations raised in each of those platforms.

By the same decree, the Government created a software tool named SIMORE (“*Sistema de Monitoreo de Recomendaciones*”) where it assesses its own progress in implementing the recommendations received by Uruguay from different Treaty Bodies and UN Special Procedures and points out which State dependencies are responsible for carrying out this task. The system was created with technical support from UNCT and the South American office of the OHCHR, within the project “Uruguay towards the 2030 sustainable development agenda: Strengthening the capacities of the National Cooperation System from a human rights perspective”. The SIMORE builds on the lessons learned by the State of Paraguay, a pioneer in the region in implementing its own virtual monitoring platform, which offered to share its software with Uruguay and to train users of the tool²⁰⁰.

²⁰⁰ Agencia Uruguaya de Cooperación Internacional, Sistema de las Naciones Unidas en Uruguay. “Uruguay hacia la agenda de desarrollo sostenible 2030: Fortaleciendo las capacidades del Sistema Nacional de Cooperación desde una perspectiva de derechos humanos”. Enero-diciembre 2016. P. 7. Available at: <https://mptf.undp.org/document/download/17668>

Even though the creation of this tool represents in itself good practice, the system still has some aspects that could be improved. For instance, in relation to the UPR, it only lists the recommendations received during the second and third cycles and provides brief information concerning the implementation of around 74% of those raised during the second cycle, while remaining silent about the others. In some cases, the information displayed on the website is not necessarily updated, and/or has not been classified according to indicators that allow the user to assess the degree of implementation of the recommendations and hence request the State to adopt further steps.

Mindful of this situation, the Uruguayan CSO "*Iniciativas Sanitarias*", member of the international alliance "*Fòs Feminista*" saw an opportunity to contribute to the work of other human rights organisations that rely on updated data to carry out their own advocacy activities. Both institutions decided to lead a project that aims at launching a software tool with a regional scope that would support the research and advocacy efforts of academics and CSOs working and/or conducting research on the promotion of human rights from a gender perspective.

The regional software would therefore pursue several objectives:

- › First, the database would systematise the recommendations received by different States from the Latin-American region exclusively during the second and third UPR cycles, leaving aside recommendations made by other international organisations, which are monitored by the SIMORE.
- › Second, it would classify them according to the type of actions required for their implementation, and to a thematic list structured on the basis of gender topics.
- › Third, the system would measure the implementation degree of the said recommendations using as parameter of reference indicators aligned to the agreements contained in the "Montevideo Consensus on Population and Development for Latin-America and the Caribbean".
- › Lastly, the tool would give CSOs relevant information on the UPR and useful tips that could strengthen their interaction with the mechanism. In other words, the project would seek overall to provide stakeholders with a tool that significantly help them to achieve their own objectives at working with the UPR.

With these objectives in view, the organisations started to liaise with other CSO from the region, namely, from Argentina, Colombia and Mexico, to set up the virtual platform and feed it with information available in the States' public sources. Whenever the information was not publicly accessible, the organisations submitted forms exercising their right to access public information held by public bodies.

The regional scope of the project allowed the leading institutions to get in contact with "*Comunidad de Derechos Humanos - CDH*" a Bolivian CSO that had been working on the design and implementation of a project with similar objectives, building upon its extensive experience in advocacy activities around the UPR at the national and international level. As *Iniciativas Sanitarias* and *FOS Feminista* had been committed to, CDH had also been working on creating a monitoring virtual tool to collect, process, analyse and disseminate information about the fulfilment of UPR recommendations both in Bolivia and in other Latin-American and Caribbean countries. This initiative would allow users to have a comprehensive overview of the regional human rights situation, identifying patterns, threats, opportunities, and challenges to promote a stronger regional human rights agenda. It would also help to establish stakeholders' alliances and would provide room for lessons learned to be shared among interested actors.

For the past year, these organisations have been working closely together in aligning their proposals and implementing a unique regional online platform that will focus on the progress achieved by the States of the region in relation to the UPR recommendations formulated during the second and third UPR cycles. The platform is planned to be launched in 2022, when it will become not only the first of its kind, but concrete proof that coordination between CSOs despite the most challenging circumstances can lead to outstanding results, as such increasing the possibilities for the UPR to achieve transformational changes on the ground.

The case study described in this section acts as concrete proof that:

- *Coordination between CSOs can even take place across borders, leading to innovative initiatives that allow organisations to exchange lessons learned and join efforts to contribute to the important task of monitoring UPR recommendations;*
- *CSOs can be seen as allies by States in the complex task of having up-to-date information on actions and measures taken to implement recommendations stemming from the UPR.*

4

Concluding remarks and recommendations

As has been shown throughout this report, the UPR represents a valuable opportunity to keep advancing the human rights agenda on the ground. By being a flexible, solution-oriented and democratic mechanism where all States and stakeholders are invited to actively participate, the UPR can become a platform for great decisions to be made, activating significant processes with true capacity to encourage transformational changes on the ground.

In light of the variety of alternatives that the UPR made available to States and other stakeholders, the following paragraphs contain recommendations to ensure successful engagement with the mechanism.

Firstly, stakeholders working with the UPR should develop the capacity to monitor different human rights processes happening both at the national and international level to identify opportunities where a strategic use of the UPR outcomes can contribute to strengthen their advocacy activities. Many of the measures whose adoption is suggested to States through UPR recommendations have also been considered in the work of other international human rights mechanisms. Therefore, by developing the capacity to simultaneously work with this broad set of mechanisms, the chances to achieve concrete progress seem to be greater.

Secondly, both recommending States and stakeholders interacting with the UPR must make sure to draft proposals that are realistic, achievable and measurable. Referring to the *SMART* methodology when engaging in the drafting process of recommendations is a wise strategy to follow. The characteristics of the *SMART* recommendations ease the monitoring work during the follow-up phase of the UPR, since they provide concrete elements that can be used as indicators of progress while holding States accountable.

Furthermore, fostering collaboration and cooperation among CSOs is highly advisable. The collective work of these organisations allows for experiences, knowledge, information and other types of resources to be shared among their members, which contributes not only to mutually reinforcing their advocacy actions, but also to increasing their capacity to bring their concerns to the State's agenda and monitor the implementation of UPR recommendations. At times, these collective efforts can lead to the establishment of regional and/or international alliances which results in greater benefits for the organisations.

As well as the above, the follow-up phase of the UPR should give room for multi-stakeholder dialogues to happen at the local level. In addition to CSOs, actors such as Parliamentarians, UNCT, Diplomats, community leaders, the youth and NHRIs can play a pivotal role in contributing to the implementation of the UPR recommendations. States should be in a capacity to maintain an ongoing engagement with these actors, who must be considered as allies in the task of implementing the recommendations.

Finally, States and other stakeholders should invest efforts in developing strategies and platforms that ease the task of monitoring recommendations. States must ensure that public information is widely accessible to all members of society, guaranteeing that such information is reliable, accurate and up to date. Stakeholders must be active in developing strategies to follow-up the UPR recommendations, making sure that the axes of such strategies are mainstreamed in the daily work of their organisations.

As has already been emphasised, processes that aim to promote transformative changes in favour of human rights are long lasting. In spite of its periodic nature, the UPR should be seen as a long-term opportunity to advocate for these changes to take place. Although each cycle of the mechanism represents a new opportunity to discuss emerging topics and encourage States to assume more international commitments, it is important to ensure that the recommendations supported by States in previous cycles remain part of the current debates, in an effort to keep certain demands alive.

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6

Annex

The following organisations have been consulted for this research by completing a virtual questionnaire:

STATE	NAME OF ORGANISATION
Albania	Save the Children Albania Country Office
Argentina	Asociación por los Derechos Civiles
Bahrain	Bahrain Human Rights Society
Bolivia	Comunidad de Derechos Humanos
Cambodia	Rainbow Community Kampuchea
Chile	Agrupación Lésbica Rompiendo el silencio
Democratic Republic of the Congo	Foyer de Développement pour l'Autopromotion des Pygmées et Indigènes Défavorisés
Guinea	Club des Jeunes Leaders pour l'Épanouissement de la Guinée
Jordan	Phenix Centre
Kenya	Lutheran World Federation
Kenya	Anonymous
Malaysia	Coalition of Malaysian NGOs in the UPR Process
Mexico	Instituto de liderazgo simone de beaviour
Mexico	Servicios y Asesoría para la Paz (SERAPAZ)
Morocco	Université Mohammed V
Morocco	Federation National des Associations Amazigh
Peru	Asociación Qosqo Maki
Serbia	XY Spectrum
Serbia	Ministry of Human and Minority Rights and Social Dialogue
Slovakia	Slovak National Centre for Human Rights
United Kingdom	Birmingham City University, School of Law
Uruguay	Iniciativas Sanitarias
Uruguay	Centro Educativo para niños con autismo

Similarly, the organisations here below mentioned were interviewed through virtual calls as part of this research:

STATE	NAME OF ORGANISATION
Albania	Child Rights Centre Albania (CRCA)
Argentina	Asociación por los Derechos Civiles
Cambodia	Cambodian Centre for Human Rights
Canada	Centre for Equality Rights in Accommodation
Canada	Canadian Poverty Institute
Chile	Agrupación Lésbica Rompiendo el Silencio
Côte d'Ivoire	Conseil National des Droits de l'Homme
DRC	Coalition L'EPU
Ecuador	Fundación Ciudadanía y Desarrollo
India	Partners for Law in Development in India
India	Working Group on Human Rights
Independent Expert on human rights and social policy	Miloon Kothari
International	Centre Catholique International de Genève
Jordan	Union for Jordanian Women (اتحاد المرأة الاردنيه)
Malaysia	MACSA
Mexico	ONU México
Morocco	National Human Rights Council of Morocco
New Zealand	New Zealand Human Rights Commission
Peru	Colectivo EPU Perú
Serbia	Ministry of Human and Minority Rights and Social Dialogue
Slovakia	Slovak National Centre for Human Rights
United Kingdom	Children 1st
Uruguay	Iniciativa Sanitarias

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