

A high-level peer-review process for future pandemic preparedness: practical lessons from the Universal Periodic Review

Preliminary remarks:

With the first reported COVID-19 infections now dating back almost two years, affected countries and multilateral organizations are increasingly able to reflect on the handling of the crisis and draw important policy lessons. While focus lies on ending the current pandemic, more efforts also go towards understanding what approaches have proven effective in addressing the global health challenges associated with COVID-19 and what measures were missing or need to be scaled up to end this pandemic, and how one can use this insight to prepare for and respond to future pandemics. Three reports by the International Health Regulations (IHR) Review Committee, the Independent Panel for Pandemic Preparedness & Response (IPPPR), and the Independent Oversight and Advisory Committee (IAOC) have been published and presented at the World Health Assembly (WHA) in May 2021. Currently, preparations for a special session of the WHA to discuss the most useful measures and legal frameworks to prepare for the next pandemic at the end of November 2021 are in full swing.

One of the recommendations mutually identified by three high-level review committees, including the IHR Review Committee, as well as by other reform papers, is the proposal of a peer-review system whereby countries review and publish their health preparedness capacities. When discussing the potential of such an instrument, it is worth looking at the strengths and weaknesses of the 15-year-old Universal Periodic Review (UPR), a peer review process in the area of human rights. While bearing in mind that not all lessons are transferable from one policy field to another, the comparison may provide some valuable insights for the development of a similar mechanism anchored in the WHO to strengthen pandemic preparedness. The Multilateral Dialogue of the Konrad-Adenauer-Stiftung (KAS) in Geneva has therefore invited UPR info, a Geneva-based non-profit, non-governmental organization with unique expertise and insights into the UPR process to identify key lessons and considerations for the drafting of a Universal Health and Preparedness Review (UHPR), based on 15 years of their expert knowledge of the similar peer-review process.

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Established in 2006 by a resolution of the Human Rights Council, the UPR aims to foster transparency, accountability, and commitment to improve the human rights situation of all United Nations Member States.

This paper aims to draw lessons from the Universal Periodic Review (UPR) to inform a proposed peer-review mechanism anchored in the World Health Organization (WHO) focusing on emergency preparedness and recovery. As a high-level voluntary review, such a mechanism would add value through a global process of accountability and solidarity and ensure that health emergency preparedness is acted upon at the highest political level to strengthen health system resilience.

This paper is articulated around three focuses of analysis: the strengths, weaknesses, and opportunities that the UPR offers and that can inform a potential periodic review process (Universal Health and Preparedness Review, UHPR) on national health emergency preparedness.

(a) Strengths

The biggest **strengths** of the UPR lie in its main characteristics; the review is universal, periodic and relies on the participation of national stakeholders.

Its **universal** aspect relates to two points: all human rights issues of concern in the State under Review (SuR) can be addressed during the interactive dialogue and all United Nations Members States participate as SuR and Recommending States (RS) in the UPR working group sessions. The comprehensive approach to human rights violations ensures that all rights holders, in particular vulnerable and marginalized groups, are listened to. The review also includes an important collaborative feature that is the sharing of good practices that promote exchange of experience and a dialogue between UN Member States. Furthermore, the participation of all UN Member States as SuR, and RS mitigates the risks of a politicization of the review which would undermine it.

Moreover, all States are treated on an equal footing. The non-binding "soft" nature of UPR recommendations encourages States to participate in their capacity as RS and SuR. The recommendations are not binding; however, they are followed up on through a cyclic mechanism of reporting and political engagement of States to their peers and constituents. To date, the UPR has achieved 100 per cent cooperation among Member States, and thanks to the reporting work of the diverse stakeholders, it has been possible to obtain information on the human rights situation in all participating countries. In addition, the implementation of these recommendations shows the impact that peer pressure can have in protecting and promoting human rights.

Lessons for a potential UHPR: Based on this, we recommend that a peer-review process on health preparedness makes the process inclusive and cooperative to avoid politicization and to facilitate the participation of all UN Member States. Inclusivity and cooperation can be supported by ensuring the participation of key national stakeholders through broad consultations and reporting. Putting an emphasis on cooperation can be beneficial for the implementation of states'

global obligations in preventing international spread of disease and foster States' responsibility in ensuring health security and access to high-quality healthcare to everyone. Cooperation with other States helps to facilitate exchange of critical information, sharing of expertise and technical assistance.

The **periodicity** of the mechanism supports its effectiveness and increases the accountability of the SuR towards its peers and citizens. The review calendar prepared in advance for the complete cycle by the OHCHR Secretariat provides predictability and ensures the engagement of all UPR players (i.e., the parliament, judicial branch, national human rights institutions, civil society organizations, media, academia). If it were to depend on national contingencies, it would leave room for delay and postponing and could lead to less participation and implementing measures along the UPR process to realize the commitments made. Based on the recommendations formulated during the review and in consultation with representatives of all key national institutions and all segments of society, SuR are encouraged to define an inclusive human rights action plan with indicators and a timeline to take decisive actions to implement the UPR recommendations. This allows for regular monitoring and assessment of the progress made.

Lessons for a potential UHPR: We recommend that a WHO-rooted review process also works with a fixed calendar to ensure the participation of all UN Member States in this process. Aligning the timing of the UHPR to key national strategic and planning cycles can be effective if integrated or linked to an *ad hoc* multi-year calendar that includes the key dates and deadlines for functioning of this process. The methodology for the calendar of the UPR cycles can be an example for the creation of the UHPR calendar: it is published approximately one year before the beginning of the 4.5 year-long cycles, and it includes the dates of the national reviews as well as the deadlines for states and other stakeholders' submissions of the reports.

The **involvement** of a broad range of stakeholders in the UPR process is a key element for the realization of human rights in the SuR. The consultations leading up to the reports, which constitute the basis of the review, also pave the way for an inclusive and sustainable implementation of the UPR recommendations. Improving the situation on the ground requires hearing the voices of people affected by human rights violations to ensure that responses are adapted to a local context and respect all segments of society's rights and their fundamental freedoms. The implementation of UPR recommendations also requires actions at different levels (e.g.: adoption of international instruments, revision of legislation, voting of a budget, setting up or strengthening institutions, human rights education programmes, improving communication and coordination mechanisms) by different actors based on their competencies (executive, legislative, judiciary). The **participatory** nature of the UPR guarantees national ownership of the process. Even though the UPR is an international mechanism it requires domestic political and legislative action.

Lessons for a potential UHPR: For a health-related peer-review process to be as effective as possible, it needs to define the national stakeholders that can engage as well as their role in the process in advance. More specifically, in the description of the national review level of the UHPR (section VII), more guidance could be provided about the broad consultations required (e.g., method of consultations, timing, and the list of suggested key stakeholders to include). The standard report template for all countries is an excellent element that can facilitate the following

global-level review. The reporting based on indicators and on all three aspects of pandemic preparedness – universal health coverage, emergency preparedness and healthier population – will additionally facilitate the comprehensive tracking of progress.

Finally, some **structural aspects** of the UPR lend an authority to the mechanism. The UPR was established by a resolution of the UN General Assembly and is under the auspice of the Human Rights Council. It is part of the UN human rights system, and it is assisted by a permanent Secretariat.

Lessons for a potential UHPR: The UHPR should be established by the UN General Assembly. The review could be under the auspice of World Health Assembly (WHA) but should ensure the participation of all UN Member States to avoid politization. A special UHPR working group session should be held.

(b) Weaknesses

While recognizing the significant achievements made by Member States following their participation in the UPR working group session over the three cycles, the UPR could benefit from specific **improvements**. By recognizing these limitations, the currently explored UHPR process could avoid having the similar weaknesses.

Vague or non-context-based **recommendations** represent a challenge to assess progress in their implementation. The use of a **SMART methodology** (Specific, Measurable, Achievable, Relevant and Time-bound) to formulate them and the input from experts, in the case of the UPR, the referral to recommendations made by expert bodies such as special procedures and treaty bodies facilitate the adoption of concrete actions and the reinforcement of the United Nations Human Rights Monitoring mechanism.

Lessons for a potential UHPR: Based on the experiences from the UPR process it would be advisable for a potential health emergency preparedness review to issue clear and constructive recommendations. A second level of review by the expert advisory commission should contribute to complement the initial review.

A lack of **linguistic accessibility and disability inclusion** is a weakness of the UPR process. Currently, the reports are available in all official languages, but guidelines on how to draft stakeholder reports and templates are often only available in English, with some recent attempts to make them available in Spanish or French. In addition to limited language availability, additional efforts need to be made to make guidelines more child- and youth-friendly as well as more accessible for people with disabilities. This can be done in the form of more simple language and audio instructions to explain how to take part in the UPR. Regularly updated guidelines, templates, and linguistic accessibility (in official UN languages, child/youth friendly and for persons with disabilities) of documents for all stakeholders would support and increase engagement in the UPR process.

Lessons for a potential UHPR: Likewise, translation of guidelines and templates into all official UN languages and sharing guidelines in other accessible formats would also ensure that all stakeholders can access information so that they can participate in the proposed UHPR. This would entail publicly sharing a call for input in different languages and formats before the review, providing accessible information regarding the modalities of the review to a variety of stakeholders and presenting the outcome of the review.

The UPR does not have an official mechanism for follow-up, **monitoring and coordination** of the implementation of recommendations. Without a centralized focal point, implementation is less effective, and uneven among states who have strong monitoring mechanisms and those who have none. Interministerial committees can coordinate implementation, define clear steps, and aid effective implementation. During the third UPR cycle, an increasing number of Member States put in place a national mechanism for reporting, implementation, and follow-up. States should be encouraged to put in place a permanent system of monitoring and coordination to ensure the efficiency of the implementation process.

Lessons for a potential UHPR: To communicate, coordinate and monitor the implementation of UHPR recommendations, permanent national mechanisms for follow-up on the health review process and findings should be created or consolidated. These national mechanisms should be the focal points for cooperation with all key national stakeholders.

In addition to the guidelines, a template report and **reporting based on indicators** would allow better assessment of the progress made in the implementation of the UPR recommendations. Providing a set of indicators against which it will be possible to assess results against national obligations and responsibilities (Section VI) will allow a better follow up of the reviews. The UPR is currently missing specific and comparable indicators, UHPR's development of indicators could serve as an example to fill this gap.

Lessons for a potential UHPR: As described in the UHPR technical paper, indicators for a health emergency preparedness review should integrate existing indicators and only as last resort develop new ones. It could be appropriate to provide the option to contextualize the list of indicators provided so that states can adapt them to their national context to be as specific and helpful as possible.

Furthermore, the implementation of UPR recommendations would benefit from greater engagement from **regions/provinces** of the assessed country, which are all affected by the recommendations and must have the competencies to follow-up and enforce them.

Lessons for a potential UHPR: In the health context this would require greater collaboration with local health bodies and clear communication on each stakeholder's role and responsibility.

Finally, a strengthening of the links between SuR **development cooperation programmes and the UPR** would pull more resources for the implementation of the UPR recommendations.

(c) Opportunities

Good practices have emerged since the first UPR cycle that represent **opportunities** to strengthen the UPR mechanism and provide lessons learned for the creation of other similar peer-review processes, such as a proposed universal health emergency preparedness review.

The drafting of **National Human Rights Action Plans**, incorporating implementation courses of action based on the recommendations of the UPR, treaty bodies, special procedures, regional mechanisms, and the sustainable development, allow for an integrated approach to address issues of concern in the SuR.

Lessons for a potential UHPR: As such, a similar plan defining measures to be taken to address gaps accompanied by results indicators would be advantageous for a health emergency preparedness review to ensure an ownership of the UHPR.

National Mechanism for Reporting, Implementation and Follow-Up (NMRIF) facilitated the engagement of all UPR stakeholders and the coordination and the collaboration between them.

Lessons for a potential UHPR: Learning from this national mechanism, the health preparedness review should be led by a national body linking domestic issues to global systems for emergency preparedness and promote alignment of national initiatives with sub-regional and regional initiatives.

Databases of recommendations foster transparency, access to information and the tracking of progress and challenges to implement the UPR recommendation. It is therefore crucial for any review-process to have an accessible and transparent database with recommendations to ease the follow-up process.

Lessons for a potential UHPR: The review of health emergency preparedness would benefit from mid-term reports (MTRs). The consultations that are taking place within the framework of the drafting of the mid-term report are critical. In the case of the UPR, they not only create a space for a public debate on the human rights situation in the country, but also allow drafting of a road map to ensure the effective implementation of the recommendations by the end of the UPR cycle. In a WHO-based peer-review process, the use of a simple format of reporting should be encouraged so that the process does not seem daunting and prevent follow-up actions. The traffic light system could provide a snapshot of the level of implementation of the recommendations (green: full implementation, orange: partial implementation, red: no action taken towards implementation) and can trigger actions to define a roadmap for implementation.

Building and enhancing **connectivity between national stakeholders** creates ownership, coherence, and sustainability in the implementation of the UPR recommendations.

Lessons for a potential UHPR: The **national multisectoral commission** proposed in the UHPR draft could play a key coordinating role in this regard. Its working methods could be similar to national mechanisms for reporting, implementation and follow-up established to monitor the implementation of human rights commitments. Such a structure, if permanent, with adequate budget and staff under the auspices of a lead Ministry, can engage with all relevant sectors across government and with national stakeholders to inform, review and make recommendations to address health issues in the country. The national commission should develop a public, objective, and reliable database to report on the implementation of the recommendations received during the peer-review to contribute to transparency and accountability, by sharing information to the public and communicating the actions taken to prevent, respond to and recover from a health crisis.

Technical funds for assistance have supported developing countries and small islands states to participate in the process and the implementation of UPR recommendations. In this regard, further links with development partners and the UN system should be created to upscale the realization of human rights.

Lessons for a potential UHPR: In the case of the proposed WHO review, similar importance should be paid to the participation for low- and middle-income countries and small island states, via a technical assistance fund. Funding for the implementation of recommendations as well as the creation of synergies with WHO projects in the field are positive elements which should be welcomed.

Prevention and protection: the implementation of UPR recommendations could improve fragile human rights situations and tackle inequalities and discrimination more sustainably if they also address their root causes. In the long term, this could not only prevent serious human rights violations, internal conflicts, and displacement, but also support the creation of more resilient societies.

Lessons for a potential UHPR: Translating this to a health-centered peer-review process, it is important that any recommendations for health emergency preparedness focus on the underlying problems in healthcare systems to increase resilience. This would help to prevent the exacerbation of inequalities in the face of a pandemic or similar health crisis and avoid unnecessary deaths and suffering.

Conclusion

A Universal Health and Preparedness Review should consider the following elements: in its drafting

- The Review must have a legal and institutional framework.
- The Review process must be supported by a Secretariat.
- Its operating procedures should avoid any risks of politicization that would compromise its credibility (e.g.: Universal participation from Recommending States and States under Review, selection of experts).
- The review should be predictable, transparent, accessible, have a participatory process and support national accountability.

- The global system should support sustainable national dynamics.
- All relevant national stakeholders, including the civil society, should participate in the review.
- The review should both prevent and respond to health issues.
- The review should encourage and facilitate the sharing of good practices between States.
- Budgetary constraints should not affect the effectiveness of the mechanism.
- A strong mechanism and system should be put in place to support the monitoring and effective implementation of recommendations formulated during the review.

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