

Telling Pacific Human Rights Stories to the World

A road map for reporting before the UN Human Rights Council's Universal Periodic Review process

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Sandra Bernklau
Program Manager

Glossary

Commission	Refers to the Human Rights Commission which was replaced by The Human Rights Council.
Constitution	A Constitution is the supreme source of the law and provides the framework for other laws of the land. It sets out how the government is structured and operates, the executive and legislative powers of the state, the judiciary and the public service, and addresses issues of state finance, land and citizenship.
Council	The Human Rights Council (HRC) is the main UN body responsible for human rights, established by the UN General Assembly resolution 60/251 and replacing and taking over most mandates, mechanisms, functions and responsibilities previously held by the Commission on Human Rights.
Government	Any State's government.
HRC	The Human Rights Council is an inter-governmental body within the UN system made up of forty-seven States responsible for strengthening the promotion and protection of human rights around the globe. The Council was created by the UN General Assembly on 15 March 2006 with the main purpose of addressing situations of human rights violations and make recommendations on them.
Report	Refers to the Report completed and presented to the Human Rights Council.
Stakeholders	Any organization, body or institution that has a stake in any State's Human Rights issues and reports to the HRC.
States	Any country reporting or involved in the process of the Universal Periodic Review.
Troika	The Troika's are three Member States of the HRC that are selected to facilitate a State's review. They are selected randomly from different regional groups.
UN	The United Nations is an international organization founded in 1945 after the Second World War by 51 countries committed to maintaining international peace and security, developing friendly relations among nations and promoting social progress, better living standards and human rights. The Organization consists of 192 Member States.
UPR	Universal Periodic Review created through the UN General Assembly on 15 March 2006 by resolution 60/251, which established the Human Rights Council itself. It is a cooperative process which, by 2011, will have reviewed the human rights records of every country. The UPR is one of the key elements of the new Council which reminds States of their responsibility to fully respect and implement all human rights and fundamental freedoms.

Acronyms & Abbreviations

ADB	Asian Development Bank
APWLD	Asia Pacific Forum on Women, Law and Development
AusAID	Australian Agency for International Development
CAT	Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
CCF	Citizen's Constitutional Forum
CEDAW	Convention for the Elimination of all forms of Discrimination Against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CRC	Convention on the Rights of the Child
CRMW	Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
CRPD	Convention on the Rights of Persons with Disabilities
CSFT	Civil Society Forum of Tonga
CSO	Civil Society Organization
DPAA	Disability Promotion and Advocacy Association
DSA	Daily Subsistence Allowance
ECREA	Ecumenical Centre for Research, Education and Advocacy
ECOSOC	Economic and Social Council of the United Nations
FDPA	Fiji Disabled People's Association
FWCC	Fiji Women's Crisis Centre
FWRM	Fiji Women's Rights Movement (formed 1986)
GIEACPC	Global Initiative to End All Corporal Punishment of Children
HRC	Human Rights Council
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic Social and Cultural Rights
ICJ	International Court of Justice
IGLHRC	International Gay and Lesbian Human Rights Commission
ILGA	International Lesbian and Gay Association

INGO	International Non Government Organisation
IRPP	Institute on Religion and Public Policy
IWRAW	International Women's Rights Action Watch
LLEE	Live & Learn Environmental Education
LLP	Legal Literacy Project of the Catholic Women's League (Tonga)
NGO	Non-Government Organisation
NHRI	National Human Rights Institutions
NZAID	New Zealand's Aid Programme
OHCHR	Office of the High Commissioner for Human Rights
PCRC	Pacific Concerns Resource Centre
PIC	Pacific Island Country
PICT	Pacific Island Countries and Territories
PINA	Pacific Islands News Association
RHRC	Reproductive Health Response in Conflict
SPC/RRRT	Pacific Regional Rights Resource Team of the Secretariat of the Pacific Community
SCF	Save the Children Fiji
SIDS	Small Island Developing States
SPC	Secretariat of the Pacific Community
SUR	State Under Review
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDP	United National Development Programme
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UPR	Universal Periodic Review
VAW	Violence Against Women
VRDTCA	Vanuatu Rural Development Training Centre's Association
WG	Working Group
WHO	World Health Organisation

Part One Introduction

Chapter 1 What is the Pacific UPR Roadmap?

Alii, Asalaamalekum, Bula, Ekamwir omo, Fakaalofa lahi atu, Fakatalofa atu, Halo oloketa, Kasalel, Kiora, Kia orana, Mauri, Malo e lei lei, Namaste, Talofa lava, Taloha ni, Yokwe.

Welcome to *Telling Pacific Human Rights Stories to the World*. A Road Map for reporting before the UN Human Rights Council's Universal Periodic Review Process (hereafter referred to as the "Roadmap"). The Roadmap is a the first Pacific guide for Pacific Island Country (PIC) governments, non-governmental organizations (NGOs) and other Stakeholders who are preparing to report to the UPR Working Group (WG) of the Human Rights Council (HRC) in Geneva, Switzerland. The UPR is a new process under which every member of the United Nations (UN) must report to the HRC once every four years.

As of early 2010, the reporting status of Pacific Island countries is as follows:

Table 1. UPR Reporting Schedule to the Human Rights Council

Pacific Island Country	UPR reporting Date for State Report to be Filed.	Session & Date
Tonga	2 April 2008 (reported)	2nd Session, 14 May 2008
Tuvalu	30 October 2008 (reported)	3rd Session, 11 December 2008
Vanuatu	31 March 2009 (reported)	5th Session, 12 May 2009
Fiji	31 December 2009 (reported)	7th Session, 11 February 2010
Kiribati	22 February 2010 (reported)	8th Session, 3 May 2010
Marshall Islands	October- November 2010*	9th Session, December 2010*
Federated States of Micronesia	October- November 2010*	9th Session, December 2010*
Nauru	December 2010- January 2011*	10th Session, February 2011*
Palau	March- April 2011*	11th Session, May 2011*
Papua New Guinea	March- April 2011*	11th Session, May 2011*
Samoa	March- April 2011*	11th Session, May 2011*
Solomon Islands	March- April 2011*	11th Session, May 2011*

* These dates are estimates, as the actual dates have not been finalised. The latest information can be found at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRSessions.aspx>. The States also receive a note verbale from the General Secretary of the UN informing them of actual dates.

Pacific Island Countries and Territories (PICTs) which are not UN members - American Samoa, Cook Islands, French Polynesia, Guam, New Caledonia, Niue, Northern Mariana Islands, Pitcairn, Tokelau, Wallis and Futuna - do not report in their own right to the HRC.

BOX 1. Reporting for Pacific Island Territories

Territories which are not yet “fully independent” and have not been admitted as members of the UN are not subject to UPR in their own right. The Metropolitan country should report on the human rights situation in these Territories. For example, France reported on the special measures it has taken in its overseas territories to reduce the gap between men and women, particularly in terms of economic status and access to elected office, as well as measures to combat violence against women. The PICTs may be invited to contribute to the State Report of the Metropolitan country. For example, the governments of Cook Islands, Niue and Tokelau were given the opportunity to comment on New Zealand’s draft Report.

In this Roadmap we will refer to the WG and the HRC interchangeably, as both are the same body of 47 States but wear different “hats.” We also regularly refer to “Stakeholders”, who are all the organisations, other than States, who file a report to the HRC. The stakeholders for a PIC’s UPR may include Pacific Island NGOs, a National Human Right Institution (for example the Fiji Human Rights Commission) and other organisations, as well as NGOs from other countries. For example, Amnesty International has filed a Stakeholder’s Report for every PIC that has appeared before the HRC at the time of writing, namely Tonga, Tuvalu, Vanuatu, Fiji and Kiribati.

The Roadmap is a practical guide to appearing before the Human Rights Council for both governments and stakeholders. The aim of the Roadmap is to demystify the report writing and presenting process for Pacific Island countries. The information supplied in this guide can also be used for reporting procedures for other international conventions, although there may be some differences in specific provisions. We will discuss this more later.

Why do we need a Pacific UPR Roadmap?

The idea for a practical guide to UPR reporting specifically for the Pacific Islands came from lessons learned by Tonga, Tuvalu, Vanuatu, Fiji and Kiribati governments and stakeholders, preparing for their first

UPR Reports. The Pacific Regional Rights Resource Team of the Secretariat of the Pacific Community (SPC /RRRT) staff played a part in the preparation: they conducted training for government officials and NGO staff on how to prepare the State and Stakeholders’ Reports. Additionally, SPC /RRRT’s Human Rights Adviser and its Communications Co-ordinator were part of the official Tuvalu delegation to the HRC in Geneva in 2008, where they provided human rights technical assistance to the State delegation. Unable to find a “practical” guide to the UPR reporting processes anywhere, let alone one tailored for small developing countries like those in the Pacific, SPC/RRRT decided to create one for its government and NGO partners. This Roadmap draws on the lessons learnt by SPC/RRRT staff and their partners preparing for travelling to and reporting before the HRC in Geneva.

The Roadmap is targeted at the Pacific and draws particularly on the experiences of the Tonga, Tuvalu, Vanuatu, Fiji and Kiribati reporting processes. The Roadmap is similar to the SPC/RRRT “CEDAW (Convention for the Elimination of All Forms of Discrimination Against Women) Roadmap: Reporting before the Committee”, which many of our PIC government and NGO partners found very useful. The Roadmap is designed and structured along the same lines.

For many governments, the reporting requirements for the UPR and other international conventions may seem a daunting task. The cost of hiring consultants (if that is the option chosen), managing the consultation process and travelling to Geneva is an added and significant burden. In Tuvalu, Vanuatu, Fiji and Kiribati the UPR Reports were not written by consultants, but by joint partnerships between various government departments, and some national NGOs, with technical support from regional agencies. The latter is a better option as there is more ownership of the report by the State and NGOs, if they have contributed to the report in real and meaningful ways. There is also greater likelihood that the recommendations of the HRC will be adopted and implemented if the report is genuinely owned by the Pacific citizens of those countries.

On top of this, the very idea of appearing before the 47 members of the Human Rights Council may be nerve-racking. Many people imagine it to be like appearing in court, where they will be asked aggressive questions and have to defend themselves. In reality, it is a supportive process, conducted much like the Pacific way, in the form of a dialogue or an exchange of views. Indeed, the process of appearing before the HRC, presenting the State Report and answering questions is called the Interactive Dialogue.

The process is also one of peer review, rather than a judicial process or an examination by a panel of experts. The questions to the State Under Review (SUR) are from the other member States of the United Nations which form the HRC rather than from a group of human rights experts. The members of various HRC delegations are usually based in Geneva, New York or other foreign missions. Thus, the process differs from appearing before a Treaty Body of experts such as the CEDAW Committee (which monitors compliance with CEDAW) or the Human Rights Committee (which monitors compliance with the International Covenant on Civil and Political Rights or ICCPR).

Who should use this Roadmap?

The Roadmap is designed for use by Pacific island governments and all stakeholders involved in preparing and writing of reports, and appearing before the HRC. The Roadmap clarifies the governments’ obligations and the role of Stakeholders in the reporting process. In the past, some governments have viewed the contributions of NGOs to the Treaty Body reporting processes (such as CEDAW) as well as to the UPR process, as not important or unnecessary. However, the UN and HRC view is that governments should consult with non-governmental and civil society organisations when implementing and reporting on the UPR process as well as other Treaty Body processes in order, for example, to improve the quality of information presented to the reviewing body and to better coordinate action in support of human rights within each country.

How should the Roadmap be used?

The Roadmap looks at the stages of the reporting process, explaining ways to make reporting preparation much easier. Just as a location map helps people find their way around a new town, this Roadmap helps governments and stakeholders find their way around the UPR reporting process.

The Roadmap is divided into 6 parts:

Part 1 provides an overview of UPR and the Human Rights Council – what they are and why they are important. It also clearly outlines the process of reporting to the HRC UPR Working Group, explaining why reporting is

compulsory and how the HRC works in relation to the UPR. (Note that the HRC has several other functions apart from conducting the UPR.) Since a number of PICs are familiar with the Treaty Body reporting processes under CEDAW, Convention on the Rights of the Child (CRC) and the Committee on the Elimination of Racial Discrimination (CERD), we will make some comparisons between the processes, to help us understand the UPR process better.

Part 2 is for States/Governments preparing their Reports and organising their delegations to Geneva. It covers how to plan the Report, what it must contain, how to call on the expertise of other agencies and organisations, and who to include in the delegation.

Part 3 is for Stakeholders / Non-Governmental Organisations (NGOs) submitting a Stakeholder’s submission. It provides advice on how to coordinate a team of stakeholders to produce a combined stakeholders’ submission or file a single organisation stakeholder’s submission or individual submission (e.g. human rights defenders), how to word the report, when and where to send it, and who to include in the delegation.

Part 4 provides insight into the Interactive Dialogue process, what to expect in Geneva, how to prepare for the presentation and questioning, the importance of the Outcome Report and the adoption of the Outcome Report by the Human Rights Council. It also looks at how both governments and stakeholders can use the Outcome Report back home.

Part 5 provides advice on obtaining funding, for both stakeholders and governments, getting around Geneva, and where to look for the best print and online resources. It also provides advice for media workers on covering the reporting process in Geneva. Also included is information about accommodation and the free bus pass provided by the City of Geneva to all visitors.

Part 6 contains a range of useful annexes referred to throughout the text, including a copy of the Universal Declaration on Human Rights (UDHR), which is the main international instrument under which a State Under Review reports, a sample PIC State and Stakeholders Report, recommendations made by members of the HRC, a sample press release and technical guidelines.

BOX 2 - Special features of the Roadmap

The UPR Roadmap includes practical experiences and offers useful tips on how to do things better or what to watch for along the way. These are found in boxes like this throughout the chapters.

Chapter 2

What is the Universal Periodic Review (UPR)?

The UPR is a new human rights mechanism and process through which the human rights record of the State Under Review (SUR) is examined and recommendations for improvements are made. The UPR was created by the United Nations General Assembly in 2006 (A/Res/60/251). The same resolution created the Human Rights Council (HRC) replacing the Commission on Human Rights.

The UPR is a unique mechanism and process which involves a review of the human rights records of all 192 United Nations (UN) Member States once every four years. While the monitoring processes of human rights treaties only apply to countries which have ratified the particular treaty, the UPR process is mandatory, not optional, for every Member State of the UN. Therefore, every Pacific Island Country (PIC) with a seat in the UN is required to participate in the review. All countries that have been scheduled to appear before the HRC have done so.

What are the goals of the UPR?

The UPR reminds States of their responsibility to fully respect and implement all human rights and fundamental freedoms. It is a state-driven process, under the backing of the HRC, which provides the opportunity for each country to outline what actions they have taken to improve the human rights situations in their countries, as well as to say what actions they are prepared to take in future to fulfil their human rights obligations or promises, and to improve their human rights records. The UPR is designed to ensure equal treatment for every country when their human rights situations are assessed. It is also designed to be a cooperative process, involving dialogue and exchange of views.

Why is the UPR important to Pacific Island Countries?

The ultimate aim of this new mechanism is to improve the human rights situation in all countries and address human rights violations wherever they occur. PICs should therefore use the UPR as an opportunity to improve human rights and the rule of law in our countries, as well as to bring to global attention issues which are of tremendous importance in our region, such as climate change and the food security crisis (e.g. from over fishing). The Pacific is a region that is largely ignored by the international community. The UPR is an important opportunity to focus attention on the Pacific Islands and to bring global attention to both the similar and different challenges we face as Pacific Islanders. When Tuvalu appeared before the HRC, the member states paid much attention to Tuvalu's immediate and pressing need for assistance facing the very real threat of climate change. The HRC asked many questions about climate change as a human rights concern, rather than simply as a scientific question. Placing climate change rights within a human rights framework gives climate change concerns an added value and fresh perspective.

PICs must be open, transparent and accountable in order to benefit from the UPR. There should be no attempt to hide information from the HRC as the Stakeholder Reports, as well as reports from other agencies, are open and candid about the human rights situation in our countries. The State Reports are meant to be self-critical and analytical, noting problems and finding solutions. No country in the world, not even among the developed countries, has a perfect human rights record. PICs will not be alone in falling short of standards. The important thing is to be open about problems, and seek help in improving all human rights situations.

BOX 3 - What are the Purposes of the UPR?

1. To improve the human rights of the citizens of the Pacific Islands.
2. To provide an opportunity to PICs to explain both the common and the unique challenges they face in complying with universal human rights standards.
3. To ask for and receive technical, financial and other assistance
4. To meet human rights standards.
5. To share best practices between State and Stakeholders.
6. To provide an internal and external review of a country's efforts to meet human rights standards.

What are the benefits of reporting?

Preparing the State Report is far more than a formal exercise. Reporting also serves as a dynamic force for change within our countries because the Reports highlight areas that still require work. It can also be an opportunity for seeking donor assistance. As the head of the Tuvalu delegation said, "If you report to the UN bodies, one of the benefits is having access to donor support for implementation on what you have promised." (*Ambassador Sopoaga, Auckland, NZ, February 2009, UPR meeting.*)

For State parties and NGOs, the preparation of the Report:

- Provides an opportunity for review of domestic laws, policies and practices to determine the extent to which human rights standards have been implemented;
- Allows for monitoring, assessment and evaluation of the strategies put in place to meet a country's obligations, and provides an opportunity for accurate assessment of the problems that delay or obstruct the implementation of human rights;
- Highlights the strengths and weaknesses of government efforts to implement human rights; and

- Provides a basis for discussion with the HRC which aims to provide constructive assistance to states in meeting their obligations

For Stakeholders/NGOs, the reporting process also:

- Provides an international forum for holding governments accountable
- Provides publicity and advocacy opportunities on human rights

What human rights standards are the basis for the review of PICs?

There are a number of human rights documents, instruments and commitments that are the basis for the review. These include human rights obligations contained in the:

1. The Charter of the United Nations;
2. The Universal Declaration of Human Rights (UDHR);
3. The human rights conventions which your country has ratified, e.g. the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) etc;
4. Voluntary promises and commitments made by your country in relation to human rights (these can include promises at other venues or to other bodies including your own human rights laws, policies and practices including the Bills of Rights in PIC Constitutions); and
5. Relevant international humanitarian law which is contained in the Conventions governing armed conflict, including those for the protection of civilians.

What documents does the Human Rights Council use to conduct the review?

The HRC relies on the following information to conduct the review, examine the human rights record of the State and engage in dialogue:

1. Information provided by the State Under Review, which can take the form of a "national report". States are supposed to have a broad consultation process at the national level with all relevant Stakeholders, including NGOs, when preparing the State report. The national report should not exceed 20 pages.
2. Information contained in the reports of UN agencies such as the reports of human rights treaty bodies (e.g. the CEDAW Committee) and reports of independent human rights experts and groups (e.g. the Special Rapporteur on Human Rights Defenders) and other UN entities. This document is prepared by the Office of the High Commissioner for Human Rights (OHCHR) and should not exceed 10 pages.
3. Information from other stakeholders including NGOs and national human rights institutions. The submissions from stakeholders should not exceed 5 pages for each individual submission or 10 pages if from a coalition of organizations. The information in these submissions is then summarised by the OHCHR in a document not exceeding 10 pages.

When will States have their human rights records examined by the UPR?

All UN Member States will be reviewed every four years - with 48 States reviewed each year in a mandatory process. All 47 members of the HRC are reviewed during their term of membership. The reviews take place during the sessions of the UPR Working Group which meets three times a year. At each session, 16 countries are reviewed.

Who carries out the UPR?

The reviews or interactive dialogues are carried out by the UPR Working Group which consists of all 47 members of the HRC; however, any other UN Member State can take part in the discussion/dialogue with the reviewed states. These other members of the UN, who are not members of the HRC, sit as Observer States, just behind the member States and ask questions and participate in the dialogue if they wish.

What is the Troika?

Each State review is assisted by a group of three states, known as a "troika", who serve as rapporteurs. The selection of the troikas for each SUR is done through a drawing of lots before each Working Group session. When Tuvalu was reviewed in December 2008, the Troika was Qatar, Uzbekistan and Zambia. The Troika meets more often and more informally with the SUR at various times, generally before and after the review. They can be a conduit of information from the HRC to the SUR, and vice versa, and can be helpful in providing tips. They are supposed to supervise the drafting of the Outcome Report by the OHCHR. They can be a useful avenue to raise objections to and or discuss the recommendations in the final Outcome Report.

Before the review

The troika receives the written questions and/or issues raised by States and passes them on to the Secretariat which has ten working days to send them to the SUR. In so doing, the troika members group the questions and/or issues following the structure and content of the Report prepared by the SUR.

During the interactive dialogue

Troika members do not have a specific role during the interactive dialogue. However, they can take the floor as representatives of their State during question time, specify they belong to the Troika, and ask questions. In Tuvalu's case the Troika took a strong interest in Tuvalu's Report and met the State delegation several times.

Preparing the Report of the UPR Working Group

The Troika prepares the Report of the UPR Working Group, which contains a full account of the proceedings, with the involvement of the SUR and with the assistance of the OHCHR Secretariat. In reality, the OHCHR writes the Report but under the general guidance of the Troika. Finally, one of the Troika members is in charge of introducing the Report before its adoption in the Working Group. In Tuvalu's case, the Troika played an important role in mediating a dispute between China and Tuvalu over an intervention made by Tuvalu in which Tuvalu thanked the Republic of China, Taiwan for assistance rendered it.

Table 2. Troikas in the Pacific Island Country UPRs

Pacific Island State Under Review	Troika
Tonga	Mexico, Nigeria, Qatar
Tuvalu	Qatar, Uzbekistan, Zambia
Vanuatu	Chile, Djibouti, India
Fiji	Angola, France, Slovenia
Kiribati	Jordan, Brazil, Russian Federation

The troika's job is also to ensure that the Outcome Report is accurate and a proper reflection of what went on during your country's dialogue with the HRC. It is possible to request that a member of the HRC from your region be on the troika, but you cannot request a specific country. As there are currently no PICs on the HRC, it will not be possible to have another PIC on your troika. You may also request that a country not be on the troika but this information has to be sent to Geneva well in advance of your session. The President of the HRC must be specifically informed. For example, for its review, Tuvalu requested one undisclosed member from the Eastern European Group to be substituted.

Can Non-Governmental Organisations (NGOs) participate in the UPR process?

NGOs are a legitimate and important part of the UPR process. NGOs involved in the UPR can be human rights NGOs, welfare NGOs, church groups, environmental organisations and so on. Governments are expected to consult widely with these bodies when drawing up their own State Reports. NGOs are also stakeholders and can file their own independent reports. These reports are used in the following ways:

1. The reports are placed on the UPR website. To see these, go to <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>. From this page, select the country in question. This will take you to a page listing the documents available for that country. Find "Summary of stakeholders' information." "Click on the "3" to go to the individual stakeholder reports.
2. Many stakeholders also submit their reports directly to other State members of the HRC, although this is not a formal part of the UPR process.

3. The information in these reports is summarised by OHCHR in the "other stakeholders" report and is considered during the review.
4. Any of the States taking part in the interactive dialogue may refer to the information that Stakeholders provide. A large number of HRC members use the Stakeholders' Reports to question the SUR.

OHCHR has released "*Information and guidelines for relevant stakeholders on the UPR*" to assist stakeholders to prepare their reports. (See Annex 1)

Can Stakeholders make statements at the Review?

NGOs are not allowed to involve themselves in the questioning and dialogue with the State Under Review. However, accredited NGOs (see later how accreditation takes place) and national institutions, such as a Human Rights Commission, are allowed a total of 20 minutes at the end of the session just before the Outcome Report is adopted by the Human Rights Council. The stakeholders' statement will not form part of the final Outcome Report. NGOs can attend the UPR Working Group sessions, and there is a special area designated for them at the HRC meetings.

In the UPR of Tonga, Tuvalu, Vanuatu, Fiji and Kiribati, no local NGO took advantage of this opportunity. However, during the plenary debate in the HRC on the various PIC Outcome Reports, several International NGOs (INGOs) made general comments including, the Canadian HIV/AIDS Legal Network, the Foundation for Aboriginal and Islander Research Action, the International Women's Rights Action Watch Asia Pacific, and Amnesty International.¹ (*Baird, 2008, p11*)

Stakeholder plenary statements (made at the end of the session, before the Outcome Report is adopted) are filed at www.upr-info.org/NGO-plenary-statements.html.

¹ A/HRC/8/L.10/Rev.1, paragraphs 950-953.

Table 3. Examples of Stakeholders who filed submissions in the Pacific island Countries UPR

Pacific Island Country Under Review	Some Stakeholder Submissions
Tonga	Legal Literacy Project (LLP) of the Catholic Women's League, Global Initiative to End All Corporal Punishment of Children (GIEACPC), International Lesbian and Gay Association (ILGA), International Gay and Lesbian Human Rights Commission (IGLHRC), ARC International, Amnesty International
Tuvalu	Tuvalu Brethren Church, Tuvalu Legal Literacy Project, National Council of Women, Jehovah's Witnesses, GIEACPAC, Amnesty International, Earth Justice.
Vanuatu	Amnesty International, Disability Promotion and Advocacy Association (DPAA), Earth Justice, GIEACAPC, Vanuatu Rural Development Training Centre's Association (VRDTCA), Transparency International, Vanuatu Red Cross, Youth Challenge International, Live & Learn Environmental Education (LLEE), Wan Small Bag, ARC International
Fiji	Coalition of Human Rights NGOs, Methodist Church, ARC International, CCF, FWRM, FWCC, Ecumenical Centre for Research, Education and Advocacy (ECCREA), Fiji Disabled People's Association (FDPA), Fiji Law Society, Franciscans International PCRC, Save the Children Fiji (SCF), Institute on Religion and Public Policy (IRPP), Earth Justice, Amnesty International, Human Rights Watch
Kiribati	AI Amnesty International; EarthJustice Earth Justice; GIEACPC Global Initiative to End All Corporal Punishment of Children; IRPP Institute on Religion and Public Policy; FI (Franciscans International); FMSI (Marist Foundation for International Solidarity); MOSC (Marist Oceania Solidarity Commission); ARC International; ILGA (International Lesbian and Gay Association); ILGA-Europe (European Region of the International Lesbian and Gay Association); TTM (Te Toa Matoa) and the School for the Disabled, Kiribati; K-WAN Kiribati Women Activists Network, Kiribati.

What is the relationship between the UPR and UN human rights treaties?

The UPR is a complimentary and supportive part of the international human rights system which includes the treaty bodies and special procedures. The UPR does not replace nor is it intended to copy or duplicate the work of these human rights mechanisms. The UPR is supposed to complement and not duplicate other human rights mechanisms, providing an added value. This means that PICs cannot ignore their other treaty obligations to report under CEDAW or ICESCR simply because they have already reported under the UPR process. All these obligations exist side by side and must continue so that the needs of Pacific Islanders are met.

What are the differences between the UPR and the Treaty Body Reporting processes?

Some PICs have been involved in reporting processes for other human rights treaties/conventions such as the CRC, CEDAW and CERD. Certainly Vanuatu, Samoa, Fiji, Tuvalu and Cook Islands have appeared before and reported to the CEDAW Committee. Vanuatu, Tuvalu and Fiji governments have now appeared before the CEDAW Committee as well as the UPR Working Group of the Human Rights Council and will know the differences between the two processes. SPC/RRRT's Human Rights Adviser was part of the NGO delegation in the CEDAW Report for Fiji, chaired the State CEDAW Committee which brought the Fiji State Report together. She was also part of the Tuvalu government delegation at the UPR of Tuvalu. The ni-Vanuatu lawyer who represented Vanuatu NGOs in the CEDAW reporting also represented her government in the UPR reporting. Neither the SPC/RRRT staff member, nor the ni-Vanuatu lawyer, sees any

contradiction in offering a variety of perspectives. Roline Lesines of Vanuatu offers a unique and insightful analysis of representing both the state and the stakeholders perspectives in Geneva in Box 4. These actions show that it is possible to represent both perspectives (sides) with the sole purpose of being transparent about the human rights situation in our Pacific countries in order to find solutions for Pacific Islanders.

BOX 4 - The Experience of Vanuatu at the UPR

A Personal Perspective by Roline Lesines

Towards the end of 2008, the then Minister of Foreign Affairs, Honourable Bakoa Kaltongga appointed a UPR Committee of which I was a member. The major task assigned to the Committee was to carry out appropriate research and consultation in order to come up with the Vanuatu UPR Report which has to be submitted on time to the OHCHR.

After the submission of our written UPR Report, the UPR Committee nominated 4 of us members of the UPR Committee to present our Report before the UPR Working Group in May 2009 in Geneva. The Minister of Foreign Affairs and the Vanuatu Ambassador in Brussels could not join us to present the Report because they had other important commitments to attend to. As the Chairperson of the UPR Committee I was then tasked to present the Vanuatu Report.

I must admit that, even though I am a lawyer by profession and had already appeared before the UN CEWDAC Committee in 2007 to present the Vanuatu NGO CEDAW Shadow Report, this presentation was another new experience and challenge for me, knowing that other countries had their Reports presented by their Ministers and Ambassadors. I thank the Director of Foreign Affairs and our Ambassador in Brussels, for their encouraging emails which really boosted our confidence and trust.

We finalized our draft oral submission two (2) days before our presentation date and we spent the day before watching other countries' presentations and fine tuning our presentation.

During our presentation I tried to remain calm and confident. In my oral submission, I emphasized the constraints that a country like Vanuatu, which is not known to the whole world, is facing in terms of its human rights issues. I also gave some brief information on the constraints that a country like Vanuatu is facing, especially when it comes to the presentation of a report, due to the geographical situation that causes us to spend a lot of money to travel to countries like Geneva or New York. I noticed that after giving that information, people in the room who never knew where Vanuatu was located, lifted their heads and became interested in listening to my presentation.

My three (3) colleagues assisted me to jot down responses to the questions that were raised after my intervention and their inputs greatly helped me. I acknowledged the areas of improvement that the country had to work on and advised that the country would provide its response to the recommendations during the Human Rights Council Session in September 2009. We learned in the process that it is best for a country to acknowledge its weaknesses rather than defending its inaction on the human rights issues that affect its citizens.

When we returned to the country, we had to carry out another round of consultations with the relevant Stakeholders and the government in order to provide our responses to the UPR Recommendations to the Human Rights Council Plenary Session in September 2009.

In early September 2009, I was instructed by the Director General of Foreign Affairs to travel to Geneva to present our responses at the Human Rights Council. This again was another great challenge for me as I have never appeared before the Human Rights Council by myself before and the greatest challenge was the fact that I would be sitting up there doing the presentation alone. One thing that I always had at the back of my mind which pushed me forward was the fact that I was doing this task for my nation and this idea really challenged me to put on the best performance I could. Thanks to the staff from the Australian and New Zealand Embassy in Geneva, members of Geneva for Human Rights, and our Troika Members for their words of encouragement and support before I actually took my seat to proceed with my presentation. This process was not as tense as the presentation before the UPR Working Group, as member States were only supposed to give comments and not ask questions.

I learnt and gained so much from the above experiences and would like to suggest to the other member States which are preparing their UPR Report to remain as simple as possible in their Reports in order to avoid confusion in the minds of the UPR Working Group. Secondly, it is best to acknowledge the areas which our Governments need to improve on and the areas which our Governments have failed to consider. For the one who will be doing the oral submission of the Report, it is recommended that he or she knows the issues that are affecting his or her country and be very knowledgeable of the content of the UPR Report that he or she will be presenting.

Finally, I would like to express my sincere word of thanks to my UPR Colleagues for their support, the Director General and the Director of Foreign Affairs for their trust in me, Geneva for Human Rights and SPC/RRRT, especially my mentor Ms. Imrana Jalal, for the continuous training SPC/RRRT has provided to build my knowledge and capacity in Human Rights.



The Vanuatu Delegation at the UPR Left to right, Serge Alain Mahe, Roline Lesines, Julie Garoleo and Louis Georges
Photo provided by Roline Lesines

Below is a summary of the main differences between the UPR and Treaty Body reporting processes.

Table 4. Differences Between Convention/Treaty Body Reporting (TBR) and Universal Periodic Review (UPR) Processes

	TBR	UPR
Who monitors/reviews the States Parties or State Under Review (SUR)?	The 10 - 23 members of the committee of experts monitoring the relevant treaty review the State Party. This is a review process by experts in the field, nominated by State Parties to the treaty. The experts are generally regarded as independent of State influence.	The 47 State Members of the Human Rights Council (HRC) sitting as a Working Group of the HRC review and examine the human rights record of the State Under Review (SUR). Other members of the UN may also ask supplementary questions. This is a review process by a State's peers, other delegations to the HRC. They are not experts in the field. The process is seen as more vulnerable to political influence and alliances or blocs.
Voluntary/Mandatory?	Voluntary. Depends on whether the State has ratified the treaty. Once a State Party ratifies they are legally bound to comply with the treaty, reporting including under it.	Mandatory. Every Member State of the UN must report.
What is monitored?	The ratified convention/treaty For example – CEDAW, ICCPR, ICESCR, CRC	The SUR's compliance with human rights obligations in the: <ul style="list-style-type: none"> · UN Charter · UDHR · Treaties it has ratified · Its own voluntary commitments at various international fora, including its promises at previous UPRs and its own Bill of Rights/Constitution · Applicable international humanitarian law
What is in the state report?	A report by the State Party about compliance with the specific treaty. The subject matter is confined to the treaty articles. Very specific answers are required. Has the State met the standards set out in various articles of the treaties?	Similar, but more generalised information. Very broad ranging. The topics may focus on the SUR's specific issues which are of concern to the international community.
When are reports due and when do dialogues happen?	Determined by the treaty obligations, e.g. under CEDAW every 4 years, under ICCPR when requested (usually every 4 years).	Every 4 years.
Can other non-state parties file reports?	Yes. Shadow, complementary or alternative reports.	Yes. Stakeholders submissions.

	TBR	UPR
When do non-state parties file their reports?	Generally after they access the state report before the Constructive Dialogue so that the experts can read the state report before the dialogue.	At a given date before the State Report.
Can other non-state parties appear before the committee and make formal representations?	Yes. They are a formalised part of the process. Each non-state party e.g., NGOs have 10 minutes each to address the committee.	Not really. They are able to make a short statement but this is usually at the end of the session prior to the Outcome Report, after the SUR has appeared and answered questions.
What happens at the review?	Constructive dialogue between the committee of experts and the state delegation. The first dialogue takes about half a day depending on the committee but this may change. States are not present when NGOs report. NGOs are present when the State Reports. The committee asks questions in blocks. After each block of questions, the State is given time to respond to them.	Similar process but generally around 3 hours. Each SUR appears before the HRC, makes a presentation based on its written report for the first hour, and then for 2 hours answers questions there and then in blocks. The practice thus far is that state members ask up to 75 questions. The SUR answers the questions in blocks. Proceedings are open. Anyone can attend.
What is the outcome of the process?	A report written by the committee called the Concluding Comments. This has specific recommendations that must be complied with. The State has no say in what is in the Concluding Comments. The recommendations and compliance with them is what the state is measured against at the next dialogue.	An Outcome Report of the HRC consisting of points and recommendations that the (SUR) may either accept, reject or note. The recommendations that are rejected are also noted in the report. This may be the subject of future focus at further UPRs of the SUR. The agreed recommendations and compliance with them is what the SUR is measured against at the next UPR.
Who writes the outcome report?	The experts themselves write the Concluding Comments. Usually one of the experts is tasked with the specific responsibility but the contents are determined by the committee as a whole.	Staff of the UN/OHCHR under the supervision the Troika. The Troika is a group of 3 states of the HRC which is specifically appointed to work closely with the SUR. When Tuvalu was reviewed in December 2008, the Troika was Qatar, Uzbekistan and Zambia. The contents must be agreed on between the SUR, the Troika and the members of the HRC.
Who files first?	The State Party files its report first. The NGO reports are often based on commentary of the State Report.	Stakeholders/NGOs file their submissions 8 months before the Council session in which the Pacific country will appear. PIC States file their State Reports 3 months before the relevant session.

BOX 5 - Useful Tips for Stakeholders/NGOs

- Familiarise yourself with your country's Bill of Rights in your Constitution, the UDHR and other conventions ratified by your country (see Annex 7) – what it is, what the articles say and what the obligations are for government. The OHCHR reporting guidelines are useful (See Annex 1).
- Find out more about your country's laws and policies.
- Promote human rights through education and awareness raising programmes / campaigns.
- Organise awareness workshops for government, NGOs, the media and other members of civil society.

Chapter 3 What is the Human Rights Council?

The Human Rights Council (HRC) is the main UN body responsible for human rights.

It was established by UN General Assembly resolution 60/251, replacing and taking over most mandates, mechanisms, functions and responsibilities previously held by the Commission on Human Rights, including the treaty body reporting processes such as the CEDAW Committee and the Special Procedures. The Special Procedures includes such functions/mandates such as the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on Violence against Women, its causes and consequences.

The HRC is an intergovernmental body of 47 member States based in Geneva. It meets for at least 10 weeks a year spread over no fewer than three sessions, and can also hold special sessions. The Human Rights Council is an additional organ of the UN General Assembly. Its role includes addressing violations of human rights, including gross and systematic violations, and the promotion of effective co-ordination and the mainstreaming of human rights within the United Nations system. The Office of the United Nations

High Commissioner for Human Rights (OHCHR) is the secretariat for the Human Rights Council, as it was for the Commission on Human Rights.

On 18 June 2007, one year after its first meeting, the Human Rights Council agreed on a system that established the procedures, mechanisms and structures to form the basis for its future work. This package, adopted as its resolution 5/1, included the Council's agenda, programme of work and rules of procedure and made modifications to the system of expert advice and the complaint procedure inherited from the commission. Resolution 5/1 also set out the ways for the operation of the council's new universal periodic review mechanism and established a process for reviewing, trying to make simpler and improve all special procedures mandates.

In resolution 60/251 the General Assembly acknowledged the important role played by non-governmental organisations (NGOs) and other civil society actors nationally, regionally and internationally in the promotion and protection of human rights.²

² Adapted from the OHCHR, 2008 *Working with the United Nations Human Rights Programme: A Handbook for Civil Society* chapter VII <http://www.ohchr.org/Documents/Publications/NgoHandbook/ngohandbook7.pdf>

Table 5. Treaty Bodies and Treaties they Monitor

Treaty Bodies	Treaty monitored
Human Rights Committee	ICCPR
Committee on Economic, Social and Cultural Rights	ICESCR
Committee on the Elimination of Racial Discrimination	CERD
Committee on the Elimination of Discrimination against Women	CEDAW
Committee against Torture	CAT
Committee on the Rights of the Child	CRC
Committee on Migrant Workers	CRMW
Committee on the Rights of Persons with Disabilities	CRPD

How was the UPR established?

The UPR was established when the Human Rights Council was created on 15 March 2006 by the UN General Assembly in resolution 60/251. This required the Council to "undertake a universal periodic review based on objective and reliable information of the fulfilment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States." (Article 5 (e)) On 18 June 2007, one year after its first meeting, members of the new council agreed to an institution-building package providing a road map guiding the future work of the council. One of the key features of this package was the new Universal Periodic Review*. In many ways the success or failure of the UPR will determine the future of the HRC as well. Of particular interest to small countries is that the UPR must not be burdensome and must take account of the level of development and specificities of each country.

* OHCHR.org, *Basic Facts about the UPR*, <<http://www.ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx>>.

How does a State become a member of the Human Rights Council?

Membership of the council consists of 47 States elected directly and individually by secret ballot by the majority of the members of the UN General Assembly. The human rights records and voluntary human rights pledges and commitments of candidate States are taken into account when electing member states. This means that your country is supposed to have a good human rights record if it wants to be a member of the HRC. The Council's member states serve for three years and are not eligible for immediate re-election after two consecutive terms. If a member State of the Council commits gross and systematic violations of human rights (very bad and continuous violations), the General Assembly, by a two-thirds majority of the members present and voting, may suspend its rights of membership in the Council. So far, no PIC has been elected to the council, although Australia and New Zealand have served. If we want to get a Pacific Island Country onto the HRC, then we must be prepared to compete with rich and powerful countries and do a lot of lobbying and advocacy, as well as improve the human rights record on the ground in our countries.

Table 6. Membership of the Human Rights Council 19 June 2009 - 18 June 2010 by Regional Groups³

AFRICAN STATES		EASTERN EUROPEAN STATES	
Angola	2010	Bosnia and Herzegovina	2010
Burkina Faso	2011	Hungary	2012
Cameroon	2012	Russian Federation	2012
Djibouti	2012	Slovakia	2011
Egypt	2010	Slovenia	2010
Gabon	2011	Ukraine	2011
Ghana	2011	LATIN AMERICAN & CARIBBEAN STATES	
Madagascar	2010	Argentina	2011
Mauritius	2012	Bolivia	2010
Nigeria	2012	Brazil	2011
Senegal	2012	Chile	2011
South Africa	2010	Cuba	2012
Zambia	2011	Mexico	2012
ASIAN STATES		Nicaragua	2010
Bahrain	2011	Uruguay	2012
Bangladesh	2012	WESTERN EUROPE & OTHER STATES	
China	2012	Belgium	2012
India	2010	France	2011
Indonesia	2010	Italy	2010
Japan	2011	Netherlands	2010
Jordan	2012	Norway	2012
Kyrgyzstan	2012	United Kingdom	2011
Pakistan	2011	United States	2012
Philippines	2010		
Qatar	2010		
Republic of Korea	2011		
Saudi Arabia	2012		

3 Source of membership table: <http://www2.ohchr.org/english/bodies/hrcouncil/groups1011.htm> accessed 10 August 2010

Part Two

The National State Report & Delegation

Chapter 4

What is the State Report and what should it contain?

All countries that are members of the United Nations (UN) must submit a national state report every four years on a regular basis to the Human Rights Council (HRC). The report covers the legislative, judicial, administrative policy and practical measures States have put in place as part of their obligations to promote, respect, protect and defend human rights. If you remember from the previous Chapter 2, the human rights obligations being considered by the HRC are under:

- the UN Charter;
- the Universal Declaration of Human Rights;
- human rights instruments to which the State is party (human rights treaties ratified by the State concerned e.g., Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW));
- voluntary promises and commitments made by the State (e.g. national human rights policies and/or programmes implemented); and
- applicable international humanitarian law.

These documents will have to be referred to when preparing your State Report and when questions are being asked during the Interactive Dialogue with the HRC.

BOX 6 - The State Report should:

- Be prepared by the State concerned, either orally or in writing, through a broad national consultation process
- Have a structure following the general guidelines
- Not exceed 20 pages

What are the principles of review of the UPR?

The review is based on objective, independent and reliable information on the fulfilment by each State of its human rights obligations and commitments. The UPR will promote the "universality, interdependence, indivisibility and interrelatedness of all human rights, and fully integrate a gender perspective." This means that Pacific Island Countries (PICs) must be objective about the information in the report; even information that may not cast it in a favourable light, e.g. stating that prisoners are being beaten in the prisons by prison officers may not make the PIC look good. However, it will be considered transparent and honest and it is better to be candid about this information and then state what the PIC is going to do about it, for example, commit to disciplining staff of the prisons that violate

prisoner's rights or promising to provide proper training to prison staff so that they understand their human rights obligations. It also means that the PICs cannot elevate some rights above others, because all rights are indivisible and interdependent. This means, for example, that the PIC under review cannot elevate the duty not to discriminate on the grounds of race above the right to free speech or liberty or due process in the courts of law. PICs cannot pick and choose what is convenient. Rights come as a package and some cannot be discarded in favour of others.

What documents will the Human Rights Council use to review PICs?

Reviews are based on the information contained in three documents:

1. Information prepared by the State under review
2. A compilation of United Nations information prepared by OHCHR.
3. A summary of stakeholders' submissions (prepared by the Office of the High Commissioner for Human Rights (OHCHR))

These documents provide distinct and complementary perspectives on the human rights situation in each State under review. They should be available at least six weeks before each review and are posted on the UPR section of the OHCHR website.

- a) Information prepared by the State under review (national report)

A State presents the information that it has prepared towards its review, which may take the form of a national report, orally or in writing. Written presentations must not exceed 20 pages. States are encouraged to prepare this information through a broad national consultation process with all relevant Stakeholders, including civil society.

- b) Compilation of United Nations information, prepared by OHCHR

OHCHR prepares, in no more than 10 pages, a compilation of the information contained in the Reports of human rights treaty bodies, special procedures and other relevant official United Nations documents.

- c) Summary of Stakeholders' submissions, prepared by OHCHR

OHCHR also prepares, in no more than 10 pages, a summary of submissions provided by other UPR Stakeholders (including National Human Rights Institutions (NHRIs) and Non Government Organisations (NGOs) and other civil society actors). The Stakeholders' Reports are put up on various websites and may form the basis of questions by States during the UPR.

What goes into the National State Report?

The Human Rights Council guidelines say that the State Report must provide the following:

- a) **Description of the methodology and the broad consultation process followed for the preparation of information provided under the Universal Periodic Review.**

This means that the PIC must describe the way it went about collecting information as well as whom it consulted. It is critical that the State consult other stakeholders including Human Rights NGOs, other welfare NGOs, church and environmental groups. PICs will always be asked a direct question about this at the Interactive Dialogue. Consultation does not mean that the PIC has to agree with the comments of the organisation consulted. The PIC can still choose to ignore the comments of the various stakeholders, but it is still required to consult with relevant stakeholders. In any case, it is useful for the State to know what issues the stakeholders are likely to raise so that it can make sure it covers those issues in its report.

BOX 7 - Preparing the Vanuatu State Report for the UPR:

A Personal Perspective by Roline Lesines

How we went about conducting the research

The UPR Committee was composed of members from different government departments. When the committee was set up, no NGO representatives were in the Committee as the NGO groups decided to set up their own group to draft their own Report after training conducted by SPC/RRRT and OHCHR at Parliament house. The Minister of Foreign Affairs is now looking at appointing some NGO representatives in the Committee.

Our Report was drafted according to the different articles of the UDHR. When we divided the research tasks among the committee we took into account the knowledge and the information that they gained through experience at their respective workplaces. For example, the ratification of conventions was allocated to our representative from Foreign Affairs. "Prison and Detention Conditions" was allocated to our representative from the Department of Correctional Services. "Women and Land" was allocated to our representative from the Department of Lands. Some other members were in the drafting sub-committee. Each of the members, after conducting their researches (i.e. interviews etc.), submitted their draft to the drafting committee who then proceeded to draft the Report.

Who wrote the Report

The Report was drafted by the drafting sub-committee of the UPR Committee. The members of the drafting sub-committee were Lawson Samuel from Foreign Affairs, Mahe Serge Alain from Foreign Affairs, Georges Louis from the State Law Office, Julie Garoleo from the Ministry of Lands and Natural Resources and myself.

Presenting the CEDAW Shadow Report and the UPR State Report

I once had the honour of presenting the NGO Shadow Report and the privilege to present the State Report for Vanuatu. Presenting the NGO Shadow Report to me was like outlining the State's failure to fulfil its obligations and what the State should do to fulfil its obligations.

Presenting a State Report is much more challenging as it requires honest reporting on the progress made by a State as well as admittance of failure or constraints in implementing particular issues. When it comes to reasons for the State's non-ratification of Conventions such as International Covenant on Economic, Social and Cultural Rights (ICESCR) for example, it was imperative to admit that the State does not have the financial capacity and resources to be able to ratify this convention yet. Before making promises to such international bodies, the presenter on behalf of the State must exercise critical thinking and consider the State's capacity, constraints, availability of resources, etc. before making a statement.

Human Rights is the responsibility of all

Human Rights must be the responsibility of all because it is the light at the end of the tunnel for prisoners who suffer due to bad treatment from police officers, for children who cannot have a bright future because they cannot afford to go to school, for women who struggle to have a seat in parliament, for widows who are denied access to land and women who struggle to have the same remuneration as men at their respective workplaces.

If everyone joined hands to ensure that human rights are maintained and upheld at all levels of the society, everyone will be able to have a decent life.



Vanuatu Delegation Julie Garoleo, Serge Alain Mahe, Roline Lesines and Louise Georges Photo provided by Roline Lesines

BOX 8 - Consultations with civil society by Pacific Island Governments

Tonga

Consultation took place within capacity constraints. Briefings and preparatory work were undertaken with government ministries and agencies, including the Tonga Police and the Tonga Defence Services. Almost all of the 49 civil society organisations that are members of the Civil Society Forum of Tonga (CSFT) were not aware of the UPR process. The Government met with CSFT and considered their concerns. The Government has also taken into account a Report by the one Tongan civil society organisation contributing to this UPR. The General Secretary of the Tonga Church Leaders Forum and the senior staff of the Life-Line Counselling Service were consulted. Discussions were held with the Chief Justice, the Minister for Justice and Attorney General, the Solicitor-General and the Vice President of the Tongan Law Society. In addition the Tonga Chamber of Commerce was consulted as was the President of the Tonga Media Council Inc.

Tuvalu

Consultations took place within severe capacity constraints. With the assistance from the OHCHR for the Pacific Region based in Fiji, and close consultations with the Office of the Attorney General, the Department of Foreign Affairs and Labour consultations were able to be initiated and the national Report prepared. There are more than 45 non-governmental organisations

in Tuvalu and not all are aware of the Universal Periodic Review. Consultations were carried out between government Stakeholders and the civil society in order to brief them on what the UPR is all about and what human rights issues are for Tuvalu. Briefings and consultations were also done and undertaken within government ministries and departments.

Vanuatu

The Government of Vanuatu appointed some Government officers to a committee called the Universal Periodic Review Committee. The Government officers were from different Government departments and offices: Department of Foreign Affairs, Department of Labour and Employment Services, Department of Health, Correctional Service Department, Department of Women's Affairs, State Law Office, Prime Minister's Office, Department of Education and Ministry of Lands and Natural Resources. The Universal Periodic Review Committee used different methods to collect information. One of the prime methods used was to gather information and conduct interviews with Government institutions. Two Government officials were part of the committee that prepared the non-governmental organisations' submissions. One of the recommendations (accepted by government) was "Involve civil society organisations in the follow-up to this UPR" (United Kingdom).

b) Background of the country under review and framework, particularly normative and institutional framework, for the promotion and protection of human rights: the constitution, legislation, policy measures, national jurisprudence, human rights infrastructure including national human rights institutions and scope of international obligations identified in the "basis of review".

This typical and technical UN language can be confusing and off-putting. Organisations such as SPC/RRRT and OHCHR can provide assistance in understanding what is required. However, in simple terms this means that the PIC must provide details of the legal, policy and structural measures and plans that it has taken to promote, protect and defend human rights. Under this head would be included legislation on human rights (including for example, Bills of Rights in most PIC Constitutions), whether the PIC has a national human rights institution, and if so, its functions, human rights policies of various state institutions, whether the courts are implementing human rights (national jurisprudence)

as well as what the PIC is doing about meeting its human rights obligations under other ratified human rights treaties such as CEDAW or ICESCR.

Example: A favourite and repetitive question in this category by many members of the HRC is why PICs do not have a national human rights institution/commission? This question shows that National Human Rights Institutions (NHRIs) are viewed as a valuable mechanism for supporting human rights. However, it also reflects a lack of understanding of the smallness of Pacific Island Countries as well as an understandable ignorance of the lack of resources etc. During their interactive dialogues, both Tonga and Tuvalu suggested that they might support a regional human rights commission as the financial costs and human resource implications of establishing and running a national one might be too prohibitive.

BOX 9 - A National or Regional Human Rights Commission?

All PICs were asked about whether they had plans to establish a national human rights institution such as Human Rights Commission for the promotion and protection of human rights.

Tonga accepted recommendations (made by France and Algeria) in the Tonga Outcome Report on the establishment of human rights institutions:

24. To establish a national human rights institution in accordance with the Paris Principles (France);

25. To create, if not a national human rights institution, at least one at the level of the group of Islands it belongs to, so that they may more effectively improve their human rights performance and implement their human rights obligations (Algeria);

Tongan Head of Delegation said:

"Regarding the establishment of a national human rights institutions or a regional institution, human rights are dealt with in the Pacific Plan under the governance pillar, and the practicalities of setting up such a regional institution are currently being explored with the Commonwealth Secretariat and the Forum Secretariat." (para 33, Outcome Report)

Tuvalu accepted the following:

7. Establish a national human rights institution in accordance with the Paris Principles (France); call on the international community to offer very much needed technical assistance to Tuvalu as stipulated and outlined in paragraph 77 of the national Report and to address the call by Tuvalu for technical assistance in the establishment of a human rights institution (Zambia);

8. Build a national commission for human rights and a human rights office in the country, and provide human rights education programmes and awareness-raising activities, calling upon the international community to consider technical assistance and financial support (Brazil).

Vanuatu accepted the following recommendations :

16. Take forward and continue with its efforts to establish a national human rights institution in accordance with the Paris Principles (Mexico, United Kingdom) and consider (Maldives) establishing a national human rights institution in compliance with the Paris Principles (Azerbaijan; Germany);

48. With the objective of establishing a national human rights institution in accordance with the Paris Principles in mind, ask for the assistance of the Office of the High Commissioner for Human Rights (Mexico); Back up the commitment to establishing a national human rights institution by asking for the necessary technical assistance and support from the international community (Morocco).

Kiribati's State Report stated:

21. There is no human rights institution in Kiribati and there is a hope that the international community will consider providing technical and financial assistance to establish one in the future. Preferably a Human Rights Commission within the region will be a step in the right direction. In addition, the government of Kiribati is supportive of the proposal currently being looked into by the Pacific Islands Forum Secretariat to establish a regional human rights mechanism.

From the Draft Recommendations for Kiribati:

9. The delegation further noted that a human rights commission within the region would be a step in the right direction. In addition, the services of such a regional commission would be fully utilized by a group of island Governments, particularly the smaller island States that could not afford to finance one on their own. Accordingly, Kiribati was supportive of the proposal of the Pacific Islands Forum secretariat which was currently looking into the merits of establishing a regional human rights mechanism.

Source: Outcome Reports of Tonga, Tuvalu, Vanuatu and Kiribati

c) Promotion and protection of human rights on the ground: implementation of international human rights obligations identified in the "basis of review," national legislation and voluntary commitments, national human rights institutions activities, public awareness of human rights, cooperation with human rights mechanisms.

This means that the PIC must not simply provide a list of the legal measures or outline the legislative framework only, but provide information on real compliance with human rights norms and standards, stating what the de facto or real situation is on the ground. Thus it is not enough to state simply, for example, that free speech is protected in the Constitution or legislation, but the PIC must provide information about whether free speech is protected in reality, whether the police arrest those who are demonstrating, whether the courts protect violations of free speech and so on. How the courts are protecting human rights must also be covered under this heading, so an explanation of common law or court-made decisions is helpful to establish this. If

the PIC is providing an explanation about the right to adequate health, then the information should provide data about the availability of health services to the rural communities and the poor. Thus PICs must provide real, accurate and reliable information about the observance of human rights on the ground. A legal way of saying this is that the PIC must provide information that is both *de jure* (in law) and *de facto* (in fact or in reality).

Governments may be tempted not to be self-critical when reporting before the Council— their reports may be mechanical presentations or lists of existing constitutional and legal provisions without any analysis of how effectively the provisions of the human rights are being implemented on the ground. Merely providing lists of legal provisions on human rights without any de facto analysis of whether human rights are being protected on the ground is not a good model to follow and States should avoid using this model. The State Reports of Tuvalu, Vanuatu and Kiribati are good State Reports to look at, if you are preparing a State Report. For example, Kiribati is quite open about the

legal discrimination faced by i-Kiribati women in its Constitution, and the challenges in trying to overcome this.

d) Identification of achievements, best practices, challenges and constraints.

This point is self explanatory. What has been successful and what has failed in putting human rights into practice? Here, PICs are being asked to outline what has been challenging to achieve and why, is it financial, technical (like not having human rights expertise in country), human resources, customs, beliefs, attitudes and so on? If there are some good practices then the Council would like the PIC to share such good practices for other countries to learn from. For example, some PIC countries have very successfully had national consultations with NGOs and other stakeholders, and taken their comments on board in very open-hearted and positive ways.

BOX 10 - Example of a Good Practice to Share

Tuvalu, Fiji and PNG have excellent provisions in their Constitutions which state that international human rights laws should apply domestically if relevant. Courts in Fiji and Tuvalu have not been shy in applying these provisions. This type of provision is very rare, and is not only a good practice, but a Best Practice. This type of information should be shared with the world. Other States also have much to learn from the Pacific Islands.

e) Key national priorities, initiatives and commitments that the State concerned intends to undertake to overcome those challenges and constraints and improve human rights situations on the ground.

This is a chance for PICs to state what they consider to be their own national priorities. What is important to PICs may not necessarily be in conflict with the HRC. For example, Tuvalu used its time at the Interactive Dialogue with the HRC to highlight the immediate and pressing problems Tuvaluans face in relation to climate change.

BOX 11 - Climate Change Within a Human Rights Framework

Both Tonga and Tuvalu pointed out the special and unique challenges of being a Small Island Developing State (SID). One of these is the immediate and pressing needs faced by both with climate change. The situation of Tuvalu is particularly dire. The challenges were expressed in the language of human rights rather than that of science. Rights to life, shelter, health, food, water and equality are under threat. Both countries received immediate sympathy and understanding from the HRC, expressed in many statements.

In its session in May 2010, Kiribati said: "34. The effects of climate change represent the singular most important challenge for Kiribati. Much is at stake, including the very existence of Kiribati for her future generations." Honourable Kouraiti Beniato; Minister for Internal and Social Affairs (MISA).

USEFUL TIP 1

It is important to note that the HRC does not expect the PICs to address all human rights challenges immediately, given the lack of resources. However, acknowledging the problems faced and having a plan to deal with them is an important first step. Tonga accepted the majority of recommendations (31 of 42) made by the HRC and rejected 11, showing that it was willing to work to gradually eliminate and reduce its own human rights challenges.

f) Expectations of the State concerned in terms of capacity-building and requests, if any, for technical assistance.

In this part of the Report a PIC can highlight what it needs in order to create good human rights laws and structures and put human rights into practice. This request for help can be in the form of funds, technical support of experts and the like or technical assistance.

BOX 12 - Asking for Help

In paragraph 105 of the State Report, the Tongan Government invited the international community to consider providing technical assistance and financial support:

- with the reconciliation and civic education programme with the people of Tonga;
- with the redrafting of the Kingdom's Constitutional arrangements and consequent legislative changes to bring these into political effect;
- for any expanded rights and freedoms developed in conjunction with both constitutional and political reforms and international Treaty ratification; and
- to the Constitutional reform programme to assist it in the valuable work of grass roots education and production of information for village communities about human rights especially at this time of proposed significant social change.

In response, Switzerland stated that if Tonga was unable to ratify ICCPR, ICESCR, CEDAW and Committee Against Torture (CAT) because of technical difficulties related to reporting obligations to treaty bodies, Switzerland was ready to consider its support in terms of technical assistance to help on the drafting of such Reports. (*Paragraph 38 of the Outcome Report*).



The Tongan Delegation at the UPR. Photo credit Fekitamoeloa Utoikamanu

Chapter 5

How Should Information for the PIC State Report be Compiled/Gathered?

The Human Rights Council provides guidelines for the writing of the State Reports. These are designed to help states parties prepare reports and to ensure that Reports are presented in a manner that allows the Human Rights Commission (HRC) to obtain a complete picture of the implementation of human rights in each country. In Chapter 4 we looked at the Universal Periodic Review (UPR) guidelines and what a State Report must cover in terms of information. In this chapter we will look at where that information is to be found, who might provide it and who should write it.

A State Report should contain data, research and analyses from a wide range of sources – including international, non-governmental and civil society organisations – not just government. The wider the consultation, the better the report; also, the more accurate it is likely to be.

A great deal of preparation and information is required in preparing the State Report, so planning must begin as early as possible. For some States, especially those without specialized agencies or dedicated desks for human rights, this may mean up to one to two years before they plan to appear before the HRC. The final Report must be submitted six weeks before the date of the Pacific Island Countries' (PICs') review in Geneva.

There are various ways to go about preparing the Report. Following are some points that should be considered in the planning process.

Who should be consulted?

The Human Rights Council wants non-state organisations like NGOs and other groups to work with States to prepare national reports. The HRC encourages States to prepare the information that they submit towards their reviews through a broad, national consultation process with all relevant Stakeholders. This can include National Human Rights Institutions (NHRIs) (only Fiji has a NHRI in the Pacific Islands), as well as civil society representatives, such as NGOs, human rights defenders, academic institutions and research institutes.

The experience of the UPR to date demonstrates a diversity of examples of "best practice" for civil society and government collaboration in the preparation of national reports. See Box 8.

Is consultation really necessary?

The Human Rights Council process strongly favours governments that have consulted with civil society and non-governmental organisations in researching and writing their reports. This is because, in writing their reports governments tend to minimise problems faced in implementing human rights and maximise any accomplishments they have made, no matter how small. This means government assessments of efforts to comply with human rights obligations are frequently incomplete.

Some governments also mistakenly believe that the HRC will not know much about compliance with human rights obligation in their countries and so may give Reports that present a "perfect" false picture or incomplete picture.

However, before a country presents to the HRC, State members will have already sought additional information from other Stakeholder's Reports. This information may come from other UN agencies working in that country, from other agencies such as the Asian Development Bank and the World Bank, and most probably from national NGOs.

The HRC is aware of these factors, and in encouraging governments to be open, will always ask the extent to which NGOs have been involved in the report writing process.

In most cases the HRC members will be able to identify this for themselves from the tone and content of the Stakeholders Reports. The members are always impressed if the State Report has been prepared in consultation with NGOs and this is often highlighted in the Outcome Document at the end representing the conclusions and recommendations of the HRC.

USEFUL TIP 2 - Consulting NGOs

Consulting local NGOs, even if you don't agree with them, will give States access to important information that may not be otherwise available. It is important not just to consult the NGOs that may write favourably about your country's human rights record, but also NGOs that might not. This may also give you a better picture of what type of questions to expect from the Human Rights Council.

As well, NGOs are not obliged to attend consultations even if they are invited to consult. That is a prerogative of the NGOs. For example in Fiji's opening statement at its review, the head of delegation stated that some NGOs had refused to attend the NGO consultation on Fiji's State Report. These NGOs may have refused for a number of reasons; for example, in some countries where there is censorship of free speech and violations of human rights by organs of the State, the State Report may not accurately report the de facto status of human rights on the ground. NGOs may therefore choose to not co-operate and report to the Council in Stakeholders' Reports.

Implementation of human rights obligations requires the involvement of all sectors of the civil society – public, private, NGOs, and community groups. Government cannot do it all on its own, and no one expects this. Consulting the NGOs does not harm the validity of the State Report or the government's image, but not consulting NGOs will harm the report's validity. The HRC is interested not only in governments' accomplishments, but also in its shortcomings in implementing human rights and their reasons for these. Those governments that still decide not to consult NGOs have to be ready to answer enquiries and possibly face critical or negative reports from their NGOs.

However, even if there has been a good working relationship, NGOs may still find that the final Report does not include all their concerns. Therefore, to complete the record, it is vital that NGOs make the most of the reporting mechanism laid down by the HRC and submit their own Stakeholders Report. Stakeholder's Reports are seen as a legitimate part of the reporting process and can complement the State Report by providing missing information, or by giving a critical

analysis of government efforts in implementing human rights provisions. (For information on Stakeholder Reports, see Part III.)

Who should write the Report?

Almost all PICs lack internal technical capacity and specialisation in human rights. This is nothing to be embarrassed about. Human rights accountability is an emerging area and we are all learning together. Human rights is both a governance issue as well as a technical area. However, it is not necessary to hire an expensive consultant to write the State Report for you. You can do this yourself with some technical support from various government agencies, regional organisations like the Pacific Regional Rights Resource Team of the Secretariat of the Pacific Community (SPC/RRRT) and international UN organisations like OHCHR, as well as local non-State organisations. Office of the High Commissioner for Human Rights (OHCHR) can provide support about what is required from the HRC, whilst SPC/RRRT can provide local, specialised knowledge, with the assistance of other local and international Stakeholders.

If you write the State Report yourself you are more likely to learn from your own mistakes, to build state capacity for writing the next report in four years time and also to invest in human rights. This way, State delegations also become more accountable about complying with human rights standards and principles. Fronting up to the HRC having written the State Report yourselves will encourage monitoring of promises made and further accountability at the next Interactive Dialogue in four years time.

Generally in most PICs, Foreign Affairs departments or Ministries write the State Report or oversee the writing of the report. This was the case in Vanuatu and Tuvalu. In Kiribati, the Ministry of Internal and Social Affairs wrote it. In Fiji's case the Office of the Attorney General wrote the Report. However, it is extremely rare for any ministry or department of government to have all the relevant information, data and statistics at their disposal or fingertips and many agencies are needed to contribute to the Report. For example, if information about economic, social and cultural rights is required then the Ministries of Finance, Health, Education, Rural Development and so on, might be able to assist. If information about civil and political rights is required then the police, prisons, courts, ombudsman offices, and the military might be good places to look for information. This information is often readily available through NGOs in your country, who may also have the technical human rights expertise.

Where can the information be found?

Writing the State Report does not need to be a new exercise beginning from scratch – there is no point reinventing the wheel. A lot of the information required for the Report can and should be taken, adapted and acknowledged from other country or situational reports already prepared. These resources could include:

- The Pacific United Nations Office of the Commissioner for Human Rights (OHCHR) situational reports
- Regional and National organisations
- The United Nations Children's Fund (UNICEF) situational reports and State Reports to UNICEF
- United Nations Development Fund for Women (UNIFEM) and Asian Development Bank (ADB) reports on the status of women in your country
- United Nations Development Program (UNDP) development and other reports on poverty and effects of development and globalisation on Pacific Islanders
- United Nations Population Fund (UNFPA) reports on women and reproductive rights
- Other UN agency reports
- Reports by Amnesty International, Human Rights Watch and other international NGOs that monitor human rights all over the world
- Reports by the Asian Development bank (ADB), such as Poverty Assessment Reports
- Reports by the World Bank
- Relevant statistics and data collected by government, NGOs and organisations
- Reports by the World Health Organisation (WHO) on women and health
- National MDG Reports
- Reports by human rights resources such as SPC/RRRT
- NGO reports, information, data and surveys
- Reports by national women machineries, such as the Ministry of Women's Affairs
- Parliamentary libraries for government and Hansard reports, development plans and policies
- Newspaper reports
- The Internet

Who else can contribute?

There are many organisations that can be asked to write specific sections of the State Report or provide certain statistics or research they have already undertaken. If organisations are involved in this way, it is important to provide them with guidelines outlining the information required and the timeframes. These guidelines could be in the form of a questionnaire or short answer form, or they may just be general guidelines with subheadings that the organisations can fill in.

Some examples of organisations that can be asked are:

- National human rights NGOs or welfare NGOs
- Crisis/ women centres for the violence against women sections
- Human rights organisations for aspects of the laws and how they impact on citizens
- Health organisations (such as the Joint United Nations Programme on HIV/AIDS (UNAIDS) Taskforce) for input on aspects of health and government's provisions for people in urban and rural areas
- Rural based organisations for aspects of rural dwellers' lives
- National Councils of Women
- Church groups
- Social services organisations that run programmes for the poor
- Communications networks

A helpful starting point is the Universal Declaration of Human Rights (UDHR). The UDHR is the main first international human rights instrument which the HRC uses to assess compliance with human rights obligations.

How and when to consult

The consultation process should not be a last minute "rubber stamping" of the final draft whereby the government allows NGOs or private organisations to view and make surface changes to the completed Report. For the consultation to be viable and to be accepted by the HRC, proper consultation and participation must begin right at the start, at the very planning process.

At the very least, consultation should be made at the following stages:

- Deciding who should write/ be involved in writing each section of the Report
- Analysis of data and conclusions drawn
- The initial draft
- Drafts incorporating changes from the initial draft

Consulting on the initial draft

Once the first draft of the State Report is complete, government should give the Report to NGOs and other agencies for comments. It should also present the first draft at a national consultation with NGOs. This consultation should involve more than a presentation of the draft – it should encourage NGO participation and comments.

BOX 13 - The UPR Consultation Process in Tonga⁴

The Tongan Government was congratulated for involving NGOs and for the honest nature of its Report. A lot of issues were raised during the preparation process. The Government of Tonga, initially reluctant to admit that domestic violence was a problem in Tonga, when confronted with statistics from the hospital's accident and emergency unit, admitted that domestic violence does exist.⁵

Almost all of the 49 civil society organisations that are members of the Civil Society Forum of Tonga (CSFT) were unaware of the UPR process, but the government met with CSFT and considered their concerns. One Tongan-based civil society organisation, the Legal Literacy Project of the Catholic Women's League, made a submission directly to Geneva, which was included in the OHCHR summary. The Tongan experience suggests that the preparatory phase for the national Report and the consultations and facilitated dialogue that took part during that phase might be one of the successes of the Tongan UPR experience.

Incorporating changes from the consultations

Once the consultations are completed, it must be decided which amendments are to be included in the next draft. Once these amendments are made, the Report may be presented back to the Stakeholders. At this stage, if the State is satisfied with the State Report but the Stakeholders are not, the State can if it wishes, go ahead and submit its Report to the Council. This is normally about 3 months before the Human Rights Council hearing.

⁴ Baird, 2008, p15

⁵ Shaila Koshy "Report card on human rights tells all" The Star (Malaysia) (24 August 2008), available at <www.thestar.com.my> (accessed 25 November 2008).

USEFUL TIP 3 - Group of Friends of Small Island and Other States

The Group of Friends of Small Island and Other States consists of an informal grouping including Australia, Canada, Chile, Maldives, Mauritius, NZ, Philippines, Singapore, Switzerland and the UK. They set themselves up to help with logistical and administration support. The current chair is the Permanent Mission of New Zealand in Geneva (mission.nz@itu.ch).

How they can help

The Group of Friends is conscious that, for those States which do not have a permanent presence in Geneva, this unfamiliar process can be difficult to negotiate. However, they point out that most States are finding the UPR process to be an extremely important and useful opportunity to engage in a balanced, non-condemnatory and non-politicised dialogue on the human rights situation in the country, and to agree to ways in which the situation might be improved. The process also offers an opportunity for the State Under Review (SUR) to request and obtain international financial and technical support to help implement recommendations. It is therefore important for all countries, irrespective of their size or whether they have a Permanent Mission in Geneva, to maximise the opportunity provided by the UPR Review process.

In this regard, the Group of Friends can help support Pacific Island SURs with assistance such as the following, should this be considered useful by your Government:

1. A point of contact when you arrive in Geneva, in order to help with any practical questions about the UPR Working Group session and follow-up;
2. The organisation of a roundtable welcome meeting with a cross-section of States that will participate in your review. The aim of the welcome meeting is to exchange information and ideas on what to expect from the Working Group Session.

3. During the welcome meeting, you may, if you wish, request certain delegations for follow-up meetings on a bilateral basis.

4. A source of advice on the follow-up process i.e. adoption of the Working Group Report and implementation.

If any of these services or other support would be useful to you as you prepare for your country's presentation before the UPR Working Group, please do not hesitate to let the Group know.

Free office space while in Geneva – for use during the UPR

Switzerland, the host country of the United Nations Office at Geneva, generously provides States undergoing the UPR, and which do not have a Permanent Mission in Geneva, with office space free of charge - for use while they are in Geneva. The offices are located in the heart of the International Organisations area (Rue de Varembe 9, 2nd floor); 5 minutes (by foot) from the Palais des Nations (where the UPR sessions take place).

If your delegation would like to make use of this offer, you should contact the Swiss Permanent Mission to the United Nations Office, and the other International Organisations in Geneva (telephone +41 22 749 24 24 or fax +41 22 749 24 37) or let them know.

Chapter 6 Who Should be in the Pacific Island Country (PIC) Government Delegation

Once a State Report has been sent to the Office of the High Commissioner for Human Rights (OHCHR), it is time to start considering who should be on the Government delegation. Do not make the mistake of assuming that the Minister for Foreign Affairs is able to adequately respond to the questions from the Council. The Interactive Dialogue is not a passive process in which the Minister makes a speech and leaves. There are two hours of questions after the Oral Statement is made which requires thought and analysis. About 80% of the questions can be anticipated (based on previous Universal Periodic Review (UPR) sessions) but the answers need to be given on the spot and the Minister may need some level of assistance to respond adequately. The questions do not necessarily come in any logical order. Quick thinking and knowledgeable people are critical for the State delegation. The Minister for Foreign Affairs may not always be the best person to attend. This involves deciding who will go to Geneva and preparing them for the presentation of the Report. The most important consideration is sending those who have knowledge about human rights. Based on experience the delegation must be sufficiently senior to make an authoritative statement on behalf of the State.

Table 7. State Delegations of Pacific Island Countries (PICs)

PIC	State Delegation
Tonga	Minister for Foreign Affairs; Permanent Representative to the UN for Tonga; High Commissioner to the United Kingdom; Deputy Secretary for Foreign Affairs; Assistant Secretary, Ministry for Foreign Affairs; legal consultant adviser
Tuvalu	Permanent Secretary for Foreign Affairs; Attorney General, Deputy Permanent Secretary for Foreign Affairs; Human Rights Adviser of the Pacific Regional Rights Resource Team of the Secretariat of the Pacific Community (SPC/RRRT) Lawyer from Foreign Affairs received Outcome Report 3 months later
Vanuatu	Lawyer from Labour Department who had been the Vice-Chair-Person of the Vanuatu UPR Committee and has sound knowledge on human rights; plus officers from the State Law Office; Department of Foreign Affairs; Ministry of Lands
Fiji	Permanent Representative to the European Union in Brussels; Director, Political and Treaties Division, Ministry for Foreign Affairs; Legal Officer, Office of the Solicitor General
Kiribati	Minister for Internal and Social Affairs (MISA); Attorney General ; Secretary Ministry of Environment, Lands and Agricultural Development; Deputy Secretary Ministry for Internal and Social Affairs; Country Focal Officer Kiribati of the Pacific Regional Rights Resource Team of the Secretariat of the Pacific Community (SPC/RRRT)



Tuvalu Delegation at the UPR. L to R. Mr Seve Lausaveve (partly obscured), Mr Eselealofa Apinelu, Ms Manaema Saitala, Ms Imrana Jalal, Mr Enele Sopoanga

Selecting the government delegation

For Pacific Island governments and Non Government Organisations (NGOs), a two to three-week trip to Geneva is very expensive. Therefore, organising the delegation to Geneva requires careful thinking and strategic planning. In deciding who should be part of the official government delegation, special attention should be paid to:

- **The person heading the delegation/presenting the Report**

The status of the person representing the government conveys a strong message to the Council and the world about the importance of human rights issues in that country. A high ranking official represents the Government's commitment to the prioritisation of human rights.

This person should be a Minister of the responsible ministry or even the Prime Minister or President. Avoid using your country's permanent representative or staff at your mission in New York or elsewhere – they may not be aware of the "latest" information from home.

- **The gender mix**

It does not portray a good image of the country for the delegation to consist of all men or majority of men.

This should definitely be avoided. In Tuvalu's case the delegation up on the dais, consisted of three women and one man. Two of the women were pregnant at the time, including the Attorney General. This conveyed a very positive and hopeful image of Tuvalu to the world.

Another Tuvaluan women lawyer was in Geneva three months later to receive the Outcome Report. The presenter at the Vanuatu delegation was a female lawyer, and the rest of the delegation consisted of two men and another woman. Two of the six Tongan representatives, and one of the three Fijian representatives were women. The UPR process is committed to the integration of gender so a proper gender mix in the delegation is critical.

- **The range of issues covered in the UPR**

Participation of knowledgeable officials from a variety of government branches will enhance the quality of the Interactive Dialogue between the State party and the Council. These government officials must also have expertise in the corresponding areas of human rights. These officials will be required to provide the information required in their area and must be willing to work hard on enhancing and marketing their government's report while in Geneva. Remember that taxpayers' money is being used to finance the government delegation, and the members' must act accountably and with genuine commitment.

- **A legal representative**

Given that at least 50 percent of the questions to governments during the Interactive Dialogue require legal knowledge and analysis, a human rights lawyer/legal expert must be part of the delegation.

The chosen expert must be gender sensitised, have a proven record of working with human rights issues and practices in the home country. A human rights lawyer currently practicing in the country will be more familiar with the laws and progress, if any, of the legal system than a lawyer who works in another country, even if that lawyer is a national of the country presenting the report. The lawyer does not have to be a government lawyer. If needed, please contact SPC/RRRT for a list of lawyers who have received training on the UPR from your country.

Many questions will be based on the practical effects of human rights laws. The legal expert must be well versed with the situation of human rights in the country. Some laws may look good on paper but in effect can be very impractical. The lawyer must explain how these laws have had a positive impact on the lives of Pacific Islanders.

NGO participation in the State delegation

NGO presence may be very useful to the government delegation. However, once an NGO person becomes part of the official delegation, she or he may face difficulties in expressing "independent" NGO views to outsiders at the UPR but must assist the government delegation.

Preparing for your appearance: having a "mock" session

In preparations for Geneva, some PIC States might consider organizing a trial run of the official Interactive Dialogue at home first. This "mock" session involves all the members of the delegation and a panel acting as Council members. SPC/RRRT is able to offer assistance, resources dependent, if it is required.

This gives the delegation a much clearer vision of the actual session before the Council and what kind of questions it will ask. For this reason, it is most important that NGOs participate so government can prepare for issues that will be raised by the Stakeholder Reports.

Choosing to have a "mock" simulated session will require a lot of preparation. The following will need to be considered:



Far right Minister for Internal and Social Affairs Honourable Kouraiti Beniato and Ms Teretia Tokam Country Focal Officer SPC/RRRT with RRRT interns at the UPR "Mock" Session. Photo credit SPC/RRRT

Who will organise it?

Ideally this should be a government initiative, while NGOs can assist by providing expertise and general assistance in the organisation of the session.

Who will participate?

It is important that those who are actually members of the government delegation going to Geneva take part in this process. As these people have busy schedules, it is best the session take no longer than three hours representing the actual process.

Who will act as the mock Human Rights Council?

It would be useful to have a mock Council chosen from local people according to their expertise and knowledge about human rights. NGO representatives are excellent candidates – they are likely to ask the toughest questions. Contact SPC/RRRT and human rights NGOs for assistance in identifying possible “mock” Council members.

When to have it

When planning a mock session, it is important to already have an idea when the government delegation is due to appear before the Council. It is a good idea to have this mock session as close as possible to the date of appearance, but with sufficient time to make necessary changes (for example, in the composition of the delegation if needed).

Distribution of the State Report

Make sure that the State Report is distributed to all the mock Council members so they can prepare their questions beforehand.

The agenda

Formulate a meeting agenda based on the format of the official Council session agenda. You can get this off the internet.

Questions to raise

The mock Council must prepare its questions carefully to ensure the delegation is thoroughly prepared for Geneva. It should meet in advance and prepare a list of questions based on the following sources:

- The Stakeholders' Submissions
- Questions by the Council to those countries that have already reported.

- The Outcome Reports of other Countries - the Recommendations are informative in determining the questions that were asked
- Many countries have specific areas of concern - for example, Mexico often asks about Special Procedures and asks why certain Special Rapporteurs have not been welcomed into a country

BOX 14: The Kiribati UPR Mock Session Experience by Teretia Tokam

Prior to our arrival in Fiji, our delegation requested SPC/RRRT to organize the UPR mock session upon our arrival. Our delegation spent a few days in Fiji to process the Shengan Visa and we spent half a day for the mock session. With the assistance of SPC/RRRT and the Office of the High Commissioner of Human Rights (OHCHR) in Fiji we invited some of the High Commissions in Fiji and some of the development agencies to take part in the mock session. SPC/RRRT hired a space in one of the hotels in Suva and arranged the room exactly the same as it would be in Geneva. During the mock session, our delegation sat in front while the rest of those participating sat before us and acted as representatives of countries in the UN Human Rights Council. Our delegation was asked a lot of questions and comments particularly on Violence Against Women (VAW) issues, constitutional and legislative reviews, consideration of ratifying other human rights conventions, and many more. These types of questions and recommendations are often raised by the UN Council. Being part of the Kiribati delegation, I felt and found that the mock session was an important tool to take advantage of before one's country is reviewed by the UN Council. I would like to encourage other countries in the Pacific region to consider asking SPC/RRRT for their assistance. The delegation of Kiribati would like to thank SPC/RRRT and the Office of the High Commissioner of Human Rights in Fiji for providing support in organizing the mock session.

Part Three

The Stakeholder Submissions & Going to Geneva

Chapter 7

What are Stakeholder Submissions

Civil society (e.g. Non Government Organisations (NGOs)) has a very important role through advocacy and monitoring in ensuring the human rights of Pacific Island citizens are recognised and implemented. For this reason, it is most important that Civil Society Organisations (CSOs) understand and use the Universal Periodic Review (UPR) reporting mechanism to maintain government accountability both at home and at the United Nations. CSOs therefore have a role to play at several stages of the UPR process - in preparing submissions for the reviews, in attending consultations and national reviews, commenting on the State Report and by contributing to the follow-up to the implementation of UPR recommendations and conclusions.



Figure 1 – Opportunities for NGO Participation⁶

The Stakeholder Submissions to the Council are seen as an alternative, or complementary (i.e. completing the picture of the reporting country) source of information to the State Report – addressing government compliance, or non-compliance, with human rights obligations (i.e. what they are doing or not doing).

⁶ Working Group on the Human Rights Council, NGO Group for the Convention on the Rights of the Child “Universal Periodic Review Toolkit” Child Rights Information Network (Geneva), available at www.crin.org/docs/UPRtoolkit_summary.pdf

Why are Stakeholder Submissions necessary?

The State Report is the basis of the UPR review and the starting point for the Council. However, governments may not be self-critical when reporting before the Council— their reports may be mechanical presentations or lists of existing constitutional and legal provisions without any analysis of how effectively the provisions of the human rights are being implemented on the ground, that is, what the *de facto* status of human rights is (as opposed to *de jure* status). As earlier noted, providing lists of legal provisions on human rights without any *de facto* analysis of whether human rights are being protected on the ground is not a good model to follow and States should avoid using the State Reports that hide human rights violations as a model. The Council wants the real picture of human rights on the ground, not just legal protection frameworks.

Therefore a good Stakeholder Report will provide this analysis, revealing its government's violations of human rights and giving the Council additional information needed for the Interactive Dialogue with the State delegation.

The Stakeholders submissions are seen as a legitimate part of the reporting process. The Council encourages States to prepare the information that they submit towards their reviews through a broad, national consultation process with all relevant Stakeholders. This can be civil society representatives, such as NGOs, human rights defenders, academic institutions and research institutes. The experience of the UPR to date demonstrates a diversity of examples of "best practice" for civil society and government collaboration in the preparation of national Reports.

Tonga and Tuvalu consulted other Stakeholders at various stages of the preparation of their UPR State Reports. See Part 2 of this Roadmap and Box 8.

In cases where NGOs have not been involved, the Stakeholder Submissions have tended to be very critical of government's efforts. However, there may be instances where NGOs choose not to participate, e.g. in situations where they do not accept the legitimacy of the government; or where they vehemently disagree with the State Report; or where they may be at risk because of the human rights work that they do. For example some NGOs did not participate in the consultation stage for Fiji.

However, even if consulted, NGOs should still consider filing a separate report. A Stakeholder Submission is always important, even if it is complimentary of the State Report, and government efforts in implementing human rights obligations.

BOX 15 – Tonga and Tuvalu Legal Literacy Project Submissions

The Tongan Legal Literacy Project and the Tuvalu Legal Literacy Project submissions were both complimentary and critical – but always diplomatic. In looking at pressing issues, the Report highlighted what government had done, filled in those areas not covered by government, and provided a critical analysis where needed.

When do the Stakeholder's Submissions have to be sent to the Office of the High Commissioner for Human Rights (OHCHR) and how are they used?

Stakeholder submissions have to be sent to OHCHR at least six months before the Council session which will consider your Pacific Island's Report. Based on these submissions, OHCHR will prepare a "Summary of Stakeholders' Information".

This Summary will not exceed ten pages:

1. The Summary is prepared by OHCHR: it identifies the issues and evidence of violations raised by the Stakeholders in their individual or combined reports; OHCHR does not attempt to independently verify the accuracy of the statements made by the Stakeholders.
2. Stakeholders include NGOs, national Human Rights institutions, Human Rights defenders, academic/research institutes, regional organisations, Civil Society Organisations (CSOs).

The importance of Stakeholder collaboration

Under the UPR guidelines, a single Stakeholder may only file a five page report. A group of Stakeholders can file a combined report of ten pages. While it is possible for a single organisation to prepare a helpful Stakeholder Report, it may be wise to work with as wide an NGO coalition as possible.

Many NGOs choose to collaborate with other national and international NGOs in preparing Stakeholder Submissions. Collaboration can also increase the impact of the Report on the Council and the government. It shows consensus that the majority are behind the positions taken in the Report.

When NGOs do not collaborate and file different reports, the value of each might diminish. The members of the Council will likely not have time to consider multiple reports, and importantly, there is the danger that information in the various reports will differ and contradict each other – meaning they will not be considered seriously. Providing one single report to the Council helps members use NGO information effectively. On the other hand there is also merit in having numerous reports on disparate topics, for example some Stakeholders comment on the political situation, others on economic rights, water and sanitation, disability, Violence Against Women (VAW) and so on. The alternative approach is for NGOs to file their own Report, highlighting the issues most important to them, and endorsing the reports of other NGOs which they have seen. For countries in conflict and transition such as Fiji or Tonga it may not be possible for NGOs to agree on a single position.

The "Summary of Stakeholders' Information" which is prepared by OHCHR based on all the Stakeholder Submissions cannot exceed ten pages. However all the individual Stakeholder Submissions go onto the Council website and are accessed and used by members of the Council and others.

How to get Stakeholders involved?

It is often difficult to convince NGOs that are already overstretched to help with the Report. The best way is to explain the immense impact that the UPR reporting process can have on human rights nationally, through global media coverage and influence from the UN itself. Impress on them the importance of balancing the government's view of the status of human rights compliance with the view that they see every day in working with marginalised and discriminated groups. It is your responsibility to represent the views of your group, whether it is a disabled person's organisation or persons living with HIV, to the world.

It may be necessary to gather NGO representatives together for a presentation, in which you explain the benefits, outline possible roles the NGOs could play, and answer any concerns. At the end of this session some Stakeholders may decide to file individual reports focusing on the rights that their group is focused on e.g. women's rights, or environmental rights; and others may decide to work together to file a combined report.

How to organise Stakeholders if filing a Combined Stakeholders Submission?

It is important to spend time identifying the strengths of each participating Stakeholder, allocating the tasks, resource and cost sharing, and discussing how to make final editorial decisions. Many NGOs focus on different kinds of rights, for example, some NGOs are dedicated to women's rights, others to reducing poverty from a rights-based approach, others to free speech and others to constitutional issues. (It is unlikely that your organisation is a good candidate for filing submissions if your goal is reducing poverty with a welfare approach rather than rights-based approach.) However, if your Pacific Island Country (PIC) is a Small Island Developing State (SID) there is probably only one overworked NGO dedicated to protecting all human rights. In that case there is probably going to be one or two Stakeholder Submissions or one combined one representing a small number of Stakeholders. If you are filing a combined submission, the following steps could be taken:

a) If your organisation is putting the Report together, make sure it is inclusive and let other Stakeholders know what is happening right from the start. Invite them to the first meeting so they feel part of the team or let others know through mail what was discussed. The more Stakeholders that input into the Report, the more credible the Report. These Stakeholders can then add their names to the list of organisations backing the submissions, if they wish to.

USEFUL TIP 4 - For NGOs

In situations where NGOs face the likelihood of being harassed, victimised or persecuted for filing Stakeholders Submissions that are critical of the State Report, it is possible to file anonymous submissions. This can be done by revealing your identity to the OHCHR, but asking that your submission not be posted on the website or that it be posted anonymously.

b) At the first meeting, start with a brainstorming session on the issues to be included. Remember that your Report does not have to cover all human rights. It may be decided to only report on one or two rights. A good starting point is to start by commenting or using the Universal Declaration of Human Rights (UDHR) articles as a basis for discussion. You can work through these to see what rights you want to consider and comment on.

c) Once the issues are decided, work out who is going to write what (see below Chapter 8). This would be the first draft.

d) Once the first draft is ready send the Report to all the Stakeholders (these could also include other NGOs not at the meetings) either through the mail or electronically through e-mail. Ask for comments and feedback. When all the comments have been received, make the changes and circulate the final draft again. Normally by this time no other amendments are required.

Chapter 8

What should a Stakeholders Submission contain?

In the Treaty Body process, the State Report is usually available to Stakeholders to comment on as it is on the relevant website. In the Universal Periodic Review (UPR) process, Stakeholders are being asked to provide information without necessarily having access to the State Report. In some cases a draft State Report might be available relatively early, and given to Stakeholders for the consultation process, especially if there is a reasonably good relationship between government and Non Government Organisations (NGOs). However, in most cases in the Pacific Island Countries (PICs), draft State Reports have not been circulated well beforehand. In most cases in the PICs the State Report was not available to the Stakeholders beforehand. Thus Stakeholders may have to write their own submissions without having access to the draft State Report.

If the State Report is made available to the Stakeholders then the Stakeholder Submissions should be organised

around the structure of the official State Report, its contents based on the nature of the State Report.

If the State Report is open, honest and candid, the Stakeholders will not have to add too much else, and can simply provide an update to make it more contemporary. However, if the State Report has glossed over certain facts, issues or problems, these need to be explained thoroughly by the Stakeholders. However, it is more than likely that the State Report will not be available to Stakeholders beforehand. Therefore, Stakeholder submissions can either be based around the rights that are of specific interest to the Stakeholder; or use the Universal Declaration of Human Rights (UDHR) as the basis of the preparation of the submission, outlining the degree to which your PIC is not in compliance with the right being addressed. See Box 15.

BOX 16 - Technical guidelines for the submission of Stakeholders

OHCHR has released "Technical guidelines for the submission of stakeholders". It is available at: <http://www.ohchr.org/EN/HRBodies/UPR/Documents/TechnicalGuideEN.pdf> (see Annex 1)

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The facts

If criticising the State Report or the State's compliance with human rights obligations, all arguments must be supported by facts – data, statistics– especially when discussing violations by governments. If statistics are unavailable, use case studies, anecdotal or other qualitative evidence. However, remember that you have only 5 or 10 pages.

A critical analysis

A Stakeholder's Submission can either complement the State Report (ie. completing the picture of the reporting country), or it can be critical.

If your report complements the State Report, be sure to also state any inaccuracies. It is wise to acknowledge the good that the government has done, but do not hesitate to point out the shortcomings either. The honest and open Interactive Dialogue will be beneficial to all sides.

Even if you are criticising the State Report, the tone of the Submissions should point out weaknesses rather than be openly hostile or challenging the government. There is nothing to be gained from "bashing" the government in an aggressive manner or attempting to embarrass it. You can be critical in a constructive manner pointing out the positive gains and the shortfalls. Be subtle (not too subtle!) and polite.

BOX 17 - How to write a Stakeholder's Submission

Stakeholders are invited to provide OHCHR with submissions which follow the structure of the General Guidelines for the preparation of information under the UPR, set out in Council decision 6/102 (see Part II). This means:

- to follow the same guidelines as the State Report; that submissions are no longer than five pages or, in the case of larger coalitions of Stakeholders, ten pages;
 - to cover, as a maximum, a four-year period; submissions are written in an official United Nations language, preferably English, French or Spanish;
 - to provide in a short paragraph, information on the objectives and work of the Stakeholder making the submission;
 - submissions are in a common word-processing format, with paragraphs and pages numbered;
 - to include an introductory paragraph summarizing the main points;
 - to indicate key words in relation to their submission (e.g., domestic violence);
 - to not reproduce concluding observations and recommendations of the human rights treaty bodies or the special procedures of the Human Rights Council, though they may refer to the extent of implementation; and
 - to not quote or annex reports from other organisations.
- Please note that:
- submissions in excess of the 5-or 10-page limit will not be considered;
 - submissions received in a language other than one of the six official United Nations languages will not be considered;
 - submissions submitted after specified deadlines will not be considered; and
 - submissions containing manifestly abusive language (e.g., incitement to violence, inherently racist language) will not be considered.

Obtaining the State Report

State Reports are available from the UN for public distribution after they are translated into all UN languages. Frequently the reports may not be available from the OHCHR until fairly close to the beginning of the Council session. Therefore it is important to request the report first from the government. If the report cannot be obtained within the country, contact OHCHR or personal contacts for information on the status of particular country reports.

If work on the Stakeholders' Submissions needs to start before obtaining a copy of the State Report, the same guidelines on the reporting structure in Part II should help, as all official government reports should follow these guidelines.

BOX 18 - Making Specific Recommendations in Stakeholder Submissions

It is important to propose specific measures, policies, laws and projects for each key point made in a Stakeholder submission. NGOs should comply closely with the recommended guidelines set by OHCHR. For example a key recommendation might be worded as follows: "The State should pass anti-discrimination legislation removing discrimination against women" or "the definition of discrimination in the Constitution should be amended to include sex, gender, disability, and health status."

Other useful starting documents

There are many useful documents that can be used when writing the Stakeholders' Submissions, including:

- Human Rights Treaty Body reports such as CEDAW reports and Concluding Comments

The official reports of the Treaty Bodies include questions asked of the States parties in prior reviews. Most human rights Committees also issue Concluding Comments or similar findings on each country, highlighting shortcomings, accomplishments, and recommended action to further implement human rights obligations. Copies of the Treaty Body reports, and in particular the Concluding Comments or findings, should be available

from your Foreign Ministry. If they are not, contact other international human rights NGOs. They can also be found on the internet: the monitoring bodies for the core human rights treaties are listed at <http://www2.ohchr.org/english/law/index.htm#core> – you can find the committee reports by following links from this page. Do not attach a list of other treaty body reports and recommendations in your report, as they will be referred to in OHCHR's report on information from UN agencies.

● Other Stakeholder Submissions

These can be obtained directly from NGOs or, in some cases, from various websites of International Non Government Organisations (INGOs).

When and where to send the report?

The Stakeholders' Submissions must be sent to OHCHR, which will summarise all the Stakeholder submissions into a ten page summary to form part of the official documents. Submissions can be sent by email to: uprsubmissions@ohchr.org. Individual and intact submissions are placed on the website and may be accessed there. The dates for submission for each session can be found at

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

Stakeholders must send in their Stakeholder Submission at least eight months before their government is scheduled to appear before the Council. This gives OHCHR time to prepare the Stakeholder's Summary as well as gives Council members time to understand and verify the information provided to then be translated into the six official languages of the UN upon request of the Committee members.

Chapter 9 Stakeholders Who Wish to Attend Their Pacific Island Country's session in Geneva

In the human rights treaty body reporting session, the Non Government Organisations (NGOs) have a more formal role to play by attending the State sessions to bear witness, as well as to appear before the treaty body and to answer questions in a separate NGO process. In the Universal Periodic Review (UPR) process, Stakeholders do not appear and respond to questions in the same way. The only formal role they have at the UPR is to briefly appear before the Council (if they have Economic and Social Council of the United Nations (ECOSOC) status – see page 79) at its plenary session, just before the Outcome Report is presented, and to make a Statement.

BOX 19 - Getting Accreditation

Go to the "Pregny Gate" at the UN on Pregny Gate, 8 - 14 Avenue de la Paix, 1211 Geneva 10 with a letter requesting accreditation. You would have already received your approval letter from your partner international organisation beforehand. Upon presentation of an identity document and copy of the letter of accreditation sent by the concerned NGO or Government, the accreditation officer will issue a photo-badge granting access. (see annex 2) This badge will remain valid for the duration of the session. Go as early as possible to avoid the long lines. This takes about half an hour. The accreditation office at the "Pregny Gate" security entrance will be open from Monday to Friday from 08:00 to 17:00.

Even government delegations need to go through the standard accreditation procedure. There are two lines, one for the NGOs and other Stakeholders; and another for government delegations.

Once you get your pass, go through to the new building, door 39. In the foyer is a large electronic board listing locations of meetings. Check this, although the Human Rights Council Working Group usually meets on the 1st floor.

This opportunity was not taken up by local/national Stakeholders in the case of Tonga, Tuvalu and Vanuatu. Instead, in Tonga's case, during the plenary debate in the Human Rights Council (HRC) on the Tonga outcome report, four international NGOs (INGOs) made general comments – the Canadian HIV/AIDS Legal Network, the Foundation for Aboriginal and Islander Research Action, the International Women's Rights Action Watch Asia Pacific, and Amnesty International.⁷ It is not clear whether any of these INGOs appeared at the request of Tongan stakeholders.

For Tuvalu, Amnesty International, Earthjustice and Canadian HIV/AIDS Legal Network made general comments. For Vanuatu, Amnesty International, Canadian HIV/AIDS Legal Network and Franciscans International made general comments. It is better that Pacific Island NGOs make statements themselves, but in the absence of Pacific NGOs, INGOs making statements is critical.

Deciding whether stakeholders should go to Geneva

There is very little known about the Pacific Islands in UN circles in Geneva, both amongst UN Member States, as well as amongst UN entities. In addition, the Pacific attracts only a little attention, because it is seen as a region in which gross violations of human rights are not committed (although this perception has changed somewhat since the coup in Fiji of 2006).

Although awareness of the Pacific region has improved slightly since the Office of the High Commissioner for Human Rights (OHCHR) opened its office in Suva, Fiji, the Pacific is generally considered of momentary importance due to its remoteness and the small size of its populations. As well, most UN member countries know very little about Pacific Island countries.

When the Tuvalu government was making its UPR presentation in Geneva in December 2008, a Northern European country asked Tuvalu to explain why it condoned large scale torture in Tuvalu. Despite the clear fallacy, (Tuvaluan prisoners are for example allowed extraordinary freedom of movement) and the amusement it generated in the Tuvalu delegation, it did highlight the apparent lack of knowledge of the Pacific in Geneva.

For this reason, going to Geneva and hosting a Side Event is an important avenue for providing information to Members of the Council, UN entities, human rights INGOs and others.

BOX 20 - Bearing witness in Geneva

You should be present to “bear witness” to your government’s State Report. This is a way of ensuring that the process is honest and transparent. Your presence alone will help this process and encourage accountability. It is also important to attend the Council session to get a full picture of what is happening, and so that you can monitor compliance with the Recommendations accepted by your country over the next four years before the next session with the Council. Make sure that when you get back to your country, that you host meetings and provide media coverage on what happened at the Council. It is important that the citizens know what was promised by our countries to the Human Rights Council.

Hosting a Side Event

It is important to attend the Council session to get a full picture of what is happening so that you can monitor compliance with the Recommendations accepted by your country over the next four years before the next session with the Council. It is also possible to host a Side Event to engender an interest in human rights issues in your country for Member States, UN Bodies, INGOs, etc. who are attending the Council session. Remember that there is very little known about the Pacific in Geneva. The International Commission of Jurists, based in Geneva, and NGOs from Fiji co-hosted a Side Event on Fiji before the State appeared before the Council on 11 February 2010. The Side Event enabled State members of the Human Rights Council, UN agencies and INGOs to find out about human rights issues in Fiji before the Interactive Dialogue.

Because funding (see Chapter 13) is always an issue in deciding who should go to Geneva, you must choose your representatives very carefully. The NGO Stakeholder representatives should:

- Represent the diverse racial, ethnic and NGO composition of the country, if possible;
- Include a human rights lawyer if possible;
- Include a media representative. They can create good publicity from Geneva with updates of the daily proceedings, photographs, etc. (see Chapter 14);
- Include knowledgeable people: people who know the Pacific Island Countries’ (PICs) human rights obligations and have an excellent working knowledge of human rights on the ground. Ideally, such people should belong to human rights NGOs; and
- Include people who have strong interpersonal communications skills, who would not be afraid to approach and discuss issues of concern with members of the Council. Such people must be articulate, non-confrontational and proactive.

BOX 21 - Organising a Side Event in Geneva for the UPR

Two days before Fiji was to have its Universal Periodic Report, the Fiji Women’s Rights Movement (FWRM) and the Citizen’s Constitutional Forum (CCF) facilitated and presented a side event at the United Nations (UN) headquarters in Geneva. Representing FWRM was the Executive Director Virisila Buadromo while CCF was represented by its Executive Director, Reverend Akuila Yabaki. The third panellist was from the International Commission on Jurists which was represented by its UN expert, Lukas Mahon.

The event was organised by FWRM and CCF, six months before the side event took place in Geneva on the 8th February 2010. The two NGOs realised quickly that it needed to update the diplomats represented on the Human Rights Council (HRC) of the situation in Fiji. While the NGOs had submitted its Stakeholders Report on the 1st September 2009, Fiji was scheduled to appear for the HRC on the 11th February 2010. The NGOs were of the view that from the time of submission to the time of appearance, the human rights situation in Fiji had deteriorated considerably. As such, it unanimously agreed that a side event would be an opportunity to update diplomats.

Over six months FWRM and CCF negotiated with the International Court of Justice (ICJ) to organise the logistics in Geneva, creating publicity about the event within diplomatic circles about the event, sending out invitations and confirming the venue as well as the refreshments. The Fiji NGOs assisted the process by sending out updated human rights analyses to diplomats as well as a list of recommendations and questions to ask of the State.

On the day of the presentation, Fiji’s side event was one of the many that was held at the UN. At the time, Fiji had its review- Iraq and Iran were also scheduled. There was a lot of interest in Iraq and Iran therefore the Fiji NGOs had to work hard at getting diplomats to attend our event. As such, posters were pasted, advertising our event in all the areas which were frequented by the diplomats – this included the corridors, the

cafeterias and bathrooms within the UN. Some NGOs even had their flyers at every table inside the Serpentine bar, which is the main hang out of the diplomats attending the UPR.

Our event was held between 12.30pm- 2:00pm and was held in a room that was organised by the Civil Society Organisation (CSO) section within the OHCHR office in Geneva. (If you are organised, ensuring that you have translators available is wise. This will most help to encourage the attendance of diplomats whose language of communication may not be English.)

The side event was organised in a panel format moderated by the ICJ’s, Lukas Mohan who provided an over-view of the legal situation in Fiji, touching on the independence of the judiciary, extra judicial killings, the state of emergency, the treatment of human rights defenders and ratification of international treaties, to name a few. This was then elaborated through testimonies that were provided by FWRM’s Virisila Buadromo who presented on behalf of the NGO delegation represented in Geneva. Following the presentations, questions were then raised by the diplomats who were present at the side event.

The types of questions that were asked and clarified were in relation to human rights defenders, the national human rights institutions, the independence of the judiciary, personal liberty, freedom of assembly and freedom of expression, discrimination, and cooperation with the Special Procedures, to name a few. There were many countries represented at the side event. Several international NGOs such as Human Rights Watch, Amnesty International, UPR- INFO.ORG, were also present.

Overall the side event is an opportunity that all Pacific NGOs should organise because it’s one of the most strategic ways of getting attention to your issues and to your country.



Reverend Aquila Yabaki Executive Director CCF, Mr Lukas Mahon UN Expert ICJ and Ms Virisila Buadromo Executive Director FWRM at the Side Event. Photo credit FWRM

Participate in a “mock” UPR session

Find out if the government delegation is organising a “mock” UPR session and get involved. Volunteer to be a Mock Council member and ask difficult questions of the State delegation so that they can properly prepare for the Interactive Dialogue. Use the opportunity to respectfully remind the State delegation to be honest and transparent about human rights in our countries.

USEFUL TIP 5

It is very useful to brief the High Commissions and Embassies in your country (or a neighbouring country if there are limited missions in your country) about the situation of human rights in your PIC before your country's Interactive Dialogue in Geneva. This will enable members of the Human Rights Council to ask relevant questions.

It may be necessary to send information directly to the State delegations of the Human Rights Council based in Geneva, or those who will be attending the Council meeting.

You can also send information to human rights INGOs like Amnesty International, Human Rights Watch (HRW) and so on so that they can pass information on or file reports. If Pacific NGOs are not able to go to Geneva, ask INGOs like Amnesty or HRW to represent your views during the Plenary session of the Council.

USEFUL TIP 6

Stakeholders should send sample questions to other States who are members of the Human Rights Council to ask about your PIC delegation during the Interactive Dialogue

How to get accreditation to get into the Council and appear before it

To get accreditation, Pacific Island NGOs must link up with an NGO that has Special Consultative Status with the Economic and Social Council of the United Nations (ECOSOC) – such as International Women's Rights Action Watch (IWRAP) or Asia Pacific Forum on Women, Law and Development (APWLD), Amnesty International, Human Rights Watch, Mandat International or the International Commission of Jurists. The assisting NGO will help arrange accreditation and with application procedures for delegations. NGOs in consultative

relationship with ECOSOC, once accredited, may attend sessions of the Working Group on the UPR, but cannot make oral statements at its meetings except prior to the Outcome Report being accepted. For information on how to be accredited to attend sessions of the Working Group on the UPR visit OHCHR's website. All applications for accreditation must be verified and ID passes collected before the meeting opens at Pass and Identification Unit.

Information sessions

NGOs in consultative status with ECOSOC, once they are accredited to attend a session of the Working Group, may arrange to hold information sessions during the Working Group's session. NGOs interested in holding such a session should contact the UPR secretariat at OHCHR. This is not the same as the Side Event.

Attending sessions of the Human Rights Council

NGOs in consultative status with ECOSOC, once accredited, may attend regular sessions of the Human Rights Council, at which UPR outcome documents are

considered and adopted. NGOs in consultative status with ECOSOC are given the opportunity to make brief general comments before the adoption of Outcome Report documents by the Human Rights Council. This can be highly problematic as hardly any Pacific Islands NGOs are accredited members of ECOSOC. It is ironic that regional and international NGOs have more recognition to make statements on Pacific Island countries than national NGOs from our region.

USEFUL TIP 7

Stakeholder plenary statements (made at the end of the session, before the Outcome Report is adopted) are filed at www.upr-info.org/NGO-plenary-statements.htm.



United Nations Office Geneva. Photo credit FWRM

USEFUL TIP 8

There is a welcome desk which provides information service to non-government delegates to facilitate their work with the HRC. The website is managed by Mandat International (www.mandint.org) in co-ordination with other NGOs, as well as with the Office of the Human Rights Council and the United Nations Office at Geneva. It is supported by the Swiss Foreign Affairs Department. www.welcomedesk.org. The website is very useful also in providing guidance on accreditation and accreditation processes.

What to do if NGOs cannot go to Geneva

Do not despair! There are international and regional NGOs who always attend these sessions and can lobby, as well as make a statement at the Plenary Session, on your behalf. Although it will not be the same, it is a viable alternative. If this is the case, you must:

- Find out which international and regional NGOs will be at that particular session
- Make contact with these NGOs and see if they are willing to lobby and make a statement on your behalf
- If so, send them your report as soon as possible
- Brief them on how to respond to questions
- Send your report to INGO with ECOSOC status advising them of your arrangement

USEFUL TIP 9

Get in touch with Amnesty International or Human Rights Watch or UPR-INFO.ORG <http://www.upr-info.org/> who can help find an organisation to represent you before the Council if you are unable to go yourself.

BOX 22 - Webcast

If Stakeholders are unable to go to Geneva the Council's Working Group's sessions can be seen live on the Human Rights Council's webcast. The webcast site also contains archived video of its previous sessions. To view the webcast you will need to download the appropriate software. The webcast service is available from the Human Rights Council page of OHCHR's website, <http://www.un.org/webcast/unhrc/index.asp>. Watch especially young lawyers from Tuvalu and Vanuatu on webcast deliver Pacific Island country State Report or receive the Outcome Reports.

Part Four

The UPR Reporting Session

Chapter 10

What happens when appearing before the Council?

There are a number of formal procedures to be followed when presenting a report before the Human Rights Council – from where to sit to when to speak. And while the thought of appearing before a UN body may be intimidating, the reality is often the opposite. It is important for Pacific Island States to remember that this is a peer review, by countries that are your equal in status in the UN system. The purpose is not to embarrass, but to encourage compliance with human rights.

The State delegation is allocated a time to present its State Report and answer any questions put to it. The timing of the presentation is known well beforehand. Following is a summary of what to expect at the sessions.⁸

BOX 22 – Advance Questions

Some State members of the Human Rights Council will send written Advance Questions ten days before the Interactive Dialogue.

This is very useful. States Under Review are strongly encouraged to address the Advance Questions in the Oral Overview. This is a better approach rather than to go over what is in the State Report which the members have already read anyway.

The written questions are normally submitted by Member states to the State Under Review (SUR) ten days before the review. The SUR must bring answers to these questions during the introduction of the national report at the beginning of the review.

Note: States can also send additional questions prior to the actual date when the SUR appears before the Human Rights Council (HRC).

BOX 23 - Some Frequently Asked Questions by States Under Review Before They Attend Their Sessions in Geneva

What is an appropriate size and level for the State delegation to the Universal Periodic Review (UPR)?

A good size delegation is about four to five at the most. Only four go up on the dais and answer questions during the Interactive Dialogue so a larger delegation is superfluous. It should consist of a relevant Minister if possible, the Attorney General or someone from that office, but mainly people with a mix of skills who know about human rights. The most important function of a delegate is to have the knowledge to answer questions immediately. If you send a huge

⁸ Note: All sessions are open except when the working group is meeting for internal matters.

delegation to Geneva this could affect your credibility in asking for funds and technical assistance to assist your country State to comply with human rights standards.

Will NGOs intervene during the Interactive Dialogue?

NGOs have no official role to play during the State's review.

At the end of the Interactive Dialogue, do we have a final say and response or should we wait for the "adoption segment"?

The SUR will always have final say at the end of the Interactive Dialogue.

Can we use a PowerPoint presentation during the Interactive Dialogue? We want to show where our country is in the Pacific and the world as most countries have no understanding of our context nor the constraints we face.

No, PowerPoint presentations are not encouraged at all. However you can put up a map in PowerPoint if the Council agrees or provide a short briefing fact sheet with a map for members of the Council.

Should SURs have a Side Event too?

It is not necessary to have a Side Event for the SUR. The dialogue before the Council is your own event where you get to tell the world about your country. The NGOs host Side Events because they have no formal role or audience before the Council.

Do government people have to register and where do we register?

Yes, the State delegation has to register at the Pregny Gate. You will have a much shorter line than others to get accreditation. You need to take your passport and other official documents. This is usually done on the day of your dialogue but can be arranged on an earlier weekday only. It cannot be done on a weekend.

It is a good idea to go early to Geneva and observe other States at their Interactive Dialogues.

Before the Review

There is an opportunity to meet with secretariat before the session (the morning of, or the day prior) to run through the process/programme and clear up any questions your delegation might have. You will also meet with the troika, who will run through the presentation process and also answer any questions you might have about process etc.

The troika's role is to facilitate the process of the State review, as well as the actual presentation.

USEFUL TIP 10

Think about the image being presented to the Council and in the Webcam – is it gender balanced? What image is it portraying to the world?

Go early and spend time talking to State delegations. This pays dividends for your own preparatory work.

Seating arrangements

The meeting room is designed so that the President and other officials are on a raised dais, looking down on the Council members, much like a stage in a hall in many Pacific Island Countries (PICs). At a lower level, sit the forty seven members of the Council, facing the President on the dais, in semi-circular seating arrangements, with countries positioned in alphabetical order. Behind the members of the Council are other member States of the UN who have observer status. Observer States may participate in the review, including in the interactive dialogue, but do not have voting rights.

The head of the PIC delegation sits on the dais next to the President of the Council Committee, facing the Council members. If the State party representative to the UN is accompanying the delegation then he or she sits next to the head of the delegation. Support staff sit behind them or, if required, on the floor working the multimedia equipment.

In Tuvalu's case, the head of the delegation sat next to the President with the Attorney General next to him. Another Tuvaluan official and the Pacific Regional Rights Resource Team of the Secretariat of the Pacific Community (SPC/RRRT) Technical support/legal adviser to the delegation sat behind the Head and Attorney General, also up on the dais.

Stakeholders sit in a side area of the Council meeting room in a cordoned area, which is supervised by a security officer. Security is strictly monitored. There is access to electric sockets (power points) for laptop computers. If the area is full of NGOs and other observers taking notes on laptops, there are an insufficient number of power points so take a four-plug power point extension board so that power points can be shared. The electric plugs in Geneva are two round pins so you may need to buy an adapter or invest in a universal adapter.

USEFUL TIP 11 - Important Contact

There is a contact point in the Office of the High Commissioner for Human Rights (OHCHR) who liaises with the Troika. It would be useful to find out the name of the contact person who will act as a liaison between the delegation and the Troika. The contact person in OHCHR UPR Secretariat facilitates the work of the Troika and the States Under Review and is also in charge of co-ordinating the drafting of the UPR Working Group reports.

What happens when appearing before the Working Group of the Council

A. 'Presentation by the State Under Review' (approx 1 hr)

The Council President welcomes the government delegation and then invites the head of the delegation to introduce members of the delegation, as well as the State Report.

The head of delegation presents the PIC report, takes questions and responds/participates in the 'Interactive Dialogue'. The address is made to the Working Group as a whole, all forty seven Council members.

There is a maximum of 60 minutes to make a statement on the written Report – i.e. to summarize the State Report and address advance questions if desired. Most countries however, take about 30-45 minutes to complete this stage.

USEFUL TIP 12

The Troika advises addressing the questions in the initial statement to avoid the questions being asked verbally (although they are likely to be repeated again verbally) and to speed the process up a bit and avoid repetition.



Ms Eselealofa Apinelu, Attorney General Tuvalu and Mr Enele Sopoanga, Secretary of Foreign Affairs Tuvalu presenting the Tuvalu State Report to the HRC. Photo credit SPC/RRRT

It is important to congratulate the Council, Working Group etc., and thank other countries who had raised concerns. Explain the process of writing the Report and the consultative and participatory approach taken, including raising awareness about the UPR and the involvement of civil society. This is a specific issue in the UPR guidelines and ought to be addressed right at the beginning for the avoidance of doubt.

Each country's approach is different. One option is to summarize the report – i.e. do not read word for word; and then spend time responding to any advance written questions that may have already been submitted; or respond to anticipated questions that you and your team have worked on.

Some countries choose to have the head of their delegation present the report, while others share the responsibility between members of their delegation – for example, your Justice Minister or Attorney General may talk about recent legislative reforms, or challenges relating to access to justice issues.

BOX 24 - Advance Questions

In some cases various members of the Council will send advance questions which can be addressed in the Oral Overview. In other cases you can anticipate the questions based on the Stakeholders Submissions as well as by studying question patterns. For instance, many Council members have favourite questions and issues that are of particular concern to them. You will see from the graphs in this chapter in Table 9 p60 the types of questions that might be asked.

BOX 25 - Being Part of the Official Tuvalu UPR Delegation

A Personal Perspective by Imrana Jalal, Fiji, Human Rights Adviser, SPC/RRRT

I was honoured to be part of the official Tuvalu delegation. The Ministry of Foreign Affairs made an official request to the head of the Secretariat of the Pacific Community, Dr. Jimmie Rodgers, for human rights technical support from the Secretariat of the Pacific Community (SPC). I was part of that technical support. Another SPC/RRRT staffer, Hannah Harborow, provided communications expertise. The same technical support is available to all Pacific Island Countries and Territories (PICTs) who are members of SPC.

I sat up on the dais behind the head of delegation, HE Enele Sopoaga, and the Attorney General, Ms. Eseleaofa Apinelu. Next to me was the International Affairs Officer, Ms Manaema Saitala Takashi. Sitting in the front row of the meeting hall, just below the dais, were Mr Seve Lausaveve of Tuvalu and Hannah of SPC/RRRT. Observing Ambassador Enele Sopoaga (the Permanent Secretary of Foreign Affairs, head of delegation), handled the questions from the floor, an experience and an important lesson in both diplomacy and equality. He was knowledgeable,

calm, unruffled and courteous. He answered questions himself and gave way to the expertise of his colleague, the female Attorney General, and others. He held his own in that large intimidating assembly room. The fact that his country has less than 12,000 people in no way disadvantaged him or allowed anyone else to take advantage of him or his delegation.

I was proud to be a Pacific Islander and a regional citizen, proud to be associated with the Tuvalu delegation including two other women, both very pregnant at the time. One of his opening comments whilst introducing us, members of his delegation, was that he was from one of the smallest countries in the world, with a population of only 12,000. Then he asked the Council members to observe that both Tuvaluan women on the delegation were clearly pregnant, and that this was part of an effort to increase the numbers of Tuvaluans. There were gales of laughter in the room. The comments were not sexist, but gracious and respectful. The way he treated the women on his Team, was an important lesson in gender equality. It was also

the only time during the whole two weeks in which I attended the Council sessions, that there was bonhomie, humour and laughter. This in no way diminished the seriousness of the dialogue. It enhanced the exchange between the Council and Tuvalu and made it one of good faith and constructive criticism.

The image of Tuvalu to the world was the Ambassador, accompanied by three women (including me), up on that dais. This was an important visual image. The Human Rights Council is committed to the mainstreaming of gender. Gender equality must exist not only in substance, but also in form.

The Ambassador had arrived only the night before so we had not had a chance to meet until then. The Attorney General and others had arrived a few days before. The night before the Tuvalu presentation we had sat up until 2am preparing the Ambassador's Oral Report together, which would not be simply reading out the State Report of twenty pages or so, but also attempting to anticipate the questions that might be asked. We tried to identify the achievements, challenges and constraints for the one hour presentation.

The Ambassador was keen to present a candid picture of human rights in Tuvalu. We anticipated the questions for the 2 hours of questioning, based on the Stakeholders Submissions which were critical of Tuvalu's human rights record, as well as questions asked of other States Under

Review during previous UPR sessions that year, especially that of Tonga's.

SPC/RRRT also has an intimate knowledge of human rights compliance in most PICs and that knowledge came in handy. In the end we had anticipated approximately 80% of the questions, and had prepared answers to them. For the remaining 20%, only when it was required, I quickly drafted potential answers whilst up on the dais and handed them to the Ambassador and the AG, as they answered questions. This type of support is extremely important and whoever is providing that technical support to the delegation must be able to provide that information immediately and write it down in a coherent manner in less than 30 seconds. A lot of small sheets of paper are required so that they can be passed back and forth.

The responses to the question were candid and transparent, admitting the failures and weaknesses and asking for assistance to fill the gaps. There was no attempt to mislead the Council. The whole experience was enriching, only to be topped by having one of the new born Tuvaluan babies, born to Manaema, named after me a few months later. In the Pacific, the concept of yaca (namesake in Fijian) is an important one. I have felt like a Pacific Island regional citizen (rather than a Fijian) for a long, long time – one of the privileges of working for SPC/RRRT; and now I am tied to Tuvalu through little Imrana forever.



The Tuvalu UPR Delegation. Photo Credit SPC/RRRT

Tuvalu took 40 minutes to make its oral overview leaving 2 hours and 20 minutes for questions and answers in the Interactive Dialogue. The floor is then opened for the interactive dialogue.

B. The 'interactive dialogue' (and responses by the State Under Review) (2 hrs)

How the reviews are done

The reviews take place through an Interactive Dialogue between the PIC under review and other UN Member States. This will happen during a meeting of the UPR Working Group, not a Plenary session. The same members make up both the Council and the Working Group but different hats are worn. During this discussion any UN Member State can pose questions, comments and/or make recommendations to the PIC under review. The troikas may group issues or questions to be shared with the PIC under review to ensure that the Interactive Dialogue takes place in an even and logical way. The length of the review will generally be 3 hours for each country in the Working Group.

List of speakers

When the representative has completed the presentation, the President thanks the government delegation and invites Council members to comment on the Report and ask questions. This is not an interrogation or cross-examination, but an opportunity for the Council to clarify issues or expand on areas of particular interest or concern. The delegation is not expected to respond immediately.

Held immediately after the State presentation, Council member States get an opportunity of 2-3 minutes each (depending on how many countries have questions) to make statements regarding the report, ask questions and make recommendations to the reporting country. Individual States make recommendations.

Countries are invited to sign up to the 'list of speakers' at the beginning of each State Report presentation (for that one, and the following/next country). There is a sign to the right of the hall where countries line up to put their name down. Anywhere between twenty to fifty plus countries (which was the situation for Israel) may sign up to ask a question/make a statement or recommendation. However, thirty four countries made statements in the dialogue with Tonga, twenty three with Tuvalu, Twenty four with Vanuatu and thirty one with Fiji.

When to answer questions

States can decide how they want to run the session – i.e. how long they want to make their initial statement, how they want to break up the questions and responses etc. (e.g. 20 questions, response, 20 questions, response etc). The delegation therefore has the choice of making the session more interactive (i.e. more of a dialogue) by presenting less at the beginning, thereby allowing more time for State questions and delegation responses. The PIC under review controls the process and is the master of its own fate.

Any UN member State, that is, State members of the Council, as well as observers, can take part in the discussion. Both specific (the detention or persecution of a particular human rights defender or journalist, for example) and general questions are asked. The questions are largely drawn from the NGO reports/ compilation by OHCHR, as well as the individual Stakeholder Submissions available from the website.

The types of questions asked

If your country has not ratified many international human rights conventions, you are likely to receive a lot of questions about why your country has not ratified the treaties and when you will. For those treaties your country has ratified, you will be asked about reporting obligations (for example, if you have not submitted your reports on time) – and whether you have incorporated the treaty obligations into your domestic law, policies and programmes.

You will also likely be asked if you are willing to offer a standing invitation to special procedure mechanisms. You will recall the Special Procedure Rapporteurs from Chapter 3 on the Human Rights Council. Special Rapporteurs are international human rights experts appointed by the Human Rights Council to monitor specific human rights globally or in specific countries undergoing crises such as the Special Rapporteur on Sudan. Special Rapporteurs require a formal invitation from government to visit your country.

HE Sopoaga from Tuvalu made it very clear that there was a standing invitation for any Rapporteurs to visit his country. Many members of the Council make recommendations for ratification of human rights conventions, optional protocols and being involved in the special procedure mechanisms.

Table 8. Some examples of Special Procedures with Specific Mandates

Special Procedures	Mandate Globally	Comments
Special Rapporteur on the situation of Human Rights Defenders	Human Rights Defenders Mandate established in 2000 by Commission on Human Rights resolution 2000/61; extended in 2008 by Human Rights Council resolution 7/8	Has reported to the UN on human rights violations against women human rights defenders in Fiji
Special Rapporteur on violence against women, its causes and consequences	Violence Against Women Mandate established in 1994 by Commission on Human Rights resolution 1994/45; extended in 2008 by Human Rights Council resolution 7/24	
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context	The Right to Adequate Housing under Article 11 of International Covenant on Economic Social and Cultural Rights (ICESCR) Mandate established in 2000 by Commission on Human Rights resolution 2000/9; extended in 2008 by Human Rights Council resolution 6/27	Visited Australia (July-August 2006) Visited Fiji for a Pacific regional consultation in October 2004
Special Rapporteur on the independence of judges and lawyers	The Independence of the judiciary and of lawyers Mandate established in 1994 by Commission on Human Rights resolution 1994/41; extended in 2008 by Human Rights Council resolution 8/6	Has made many requests to visit Fiji (18 June 2007, reminder on 20 September 2007, 26 June 2008 and 4 May 2009) but has been refused permission by the military administration
Special Rapporteur on the sale of children, child prostitution and child pornography	Sexual exploitation of children Mandate established in 1990 by Commission on Human Rights resolution 1990/68; extended in 2008 by Human Rights Council resolution 7/13	Has visited Fiji in October 1999 and reported on child sexual exploitation in the Pacific

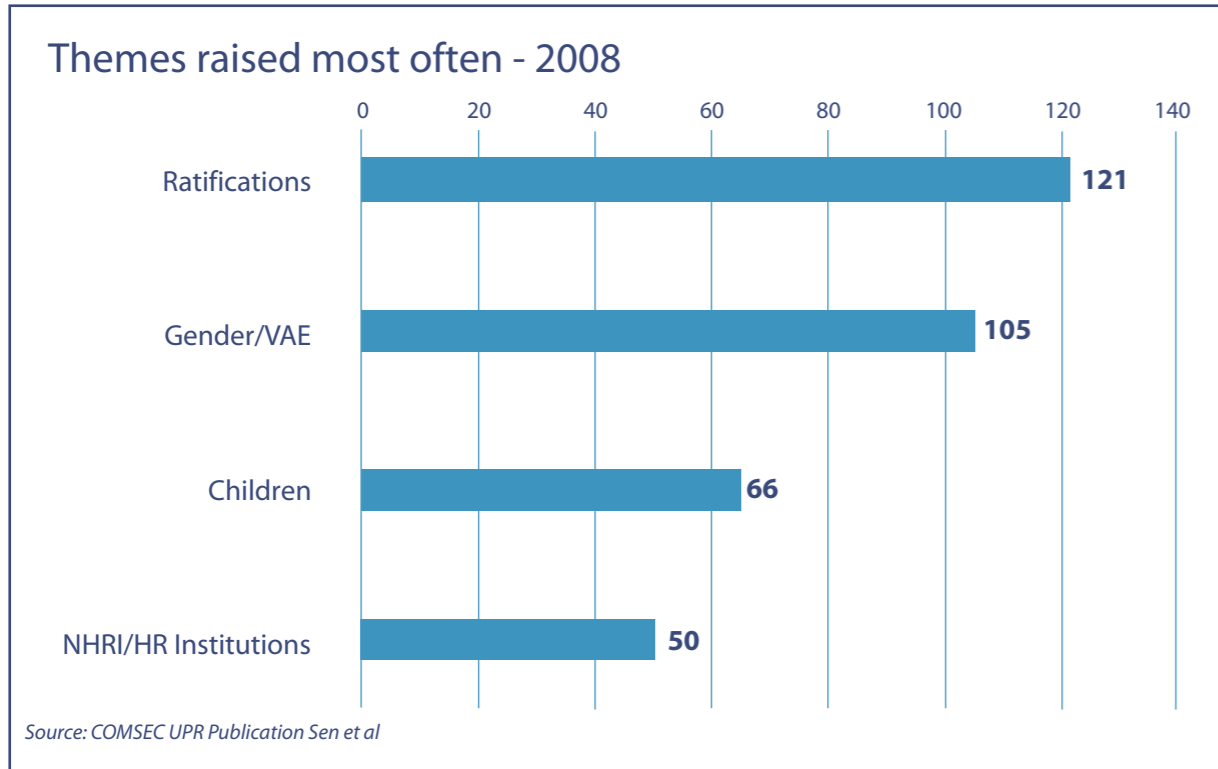
There will also be questions about sexual orientation. Furthermore there will be questions on the death penalty for those PICs that have one, such as Fiji and Samoa.

It is important to note that while the countries participating are sympathetic to challenges faced in the PICs, and in particular the resource constraints of many small island developing States in the Pacific, they may propose that underdevelopment should not be an

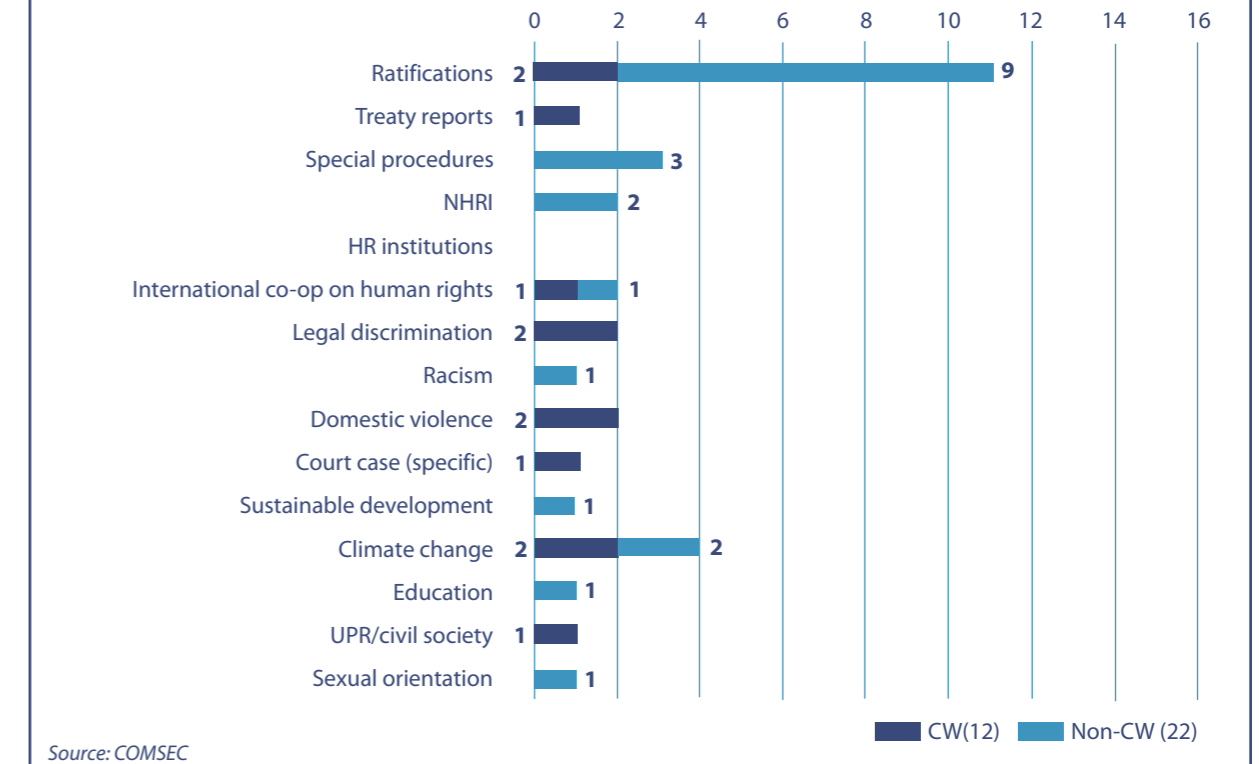
impediment to human rights protection or a pretext for ignoring improvements in some areas, in particular in protecting the rights of the most vulnerable in society, including women and children.

The following is a summary of the types of questions/themes reflected by the Council of the four PICs that have so far appeared before the Council. Included also is an overall summary of themes mentioned by the Council in relation to Commonwealth countries.

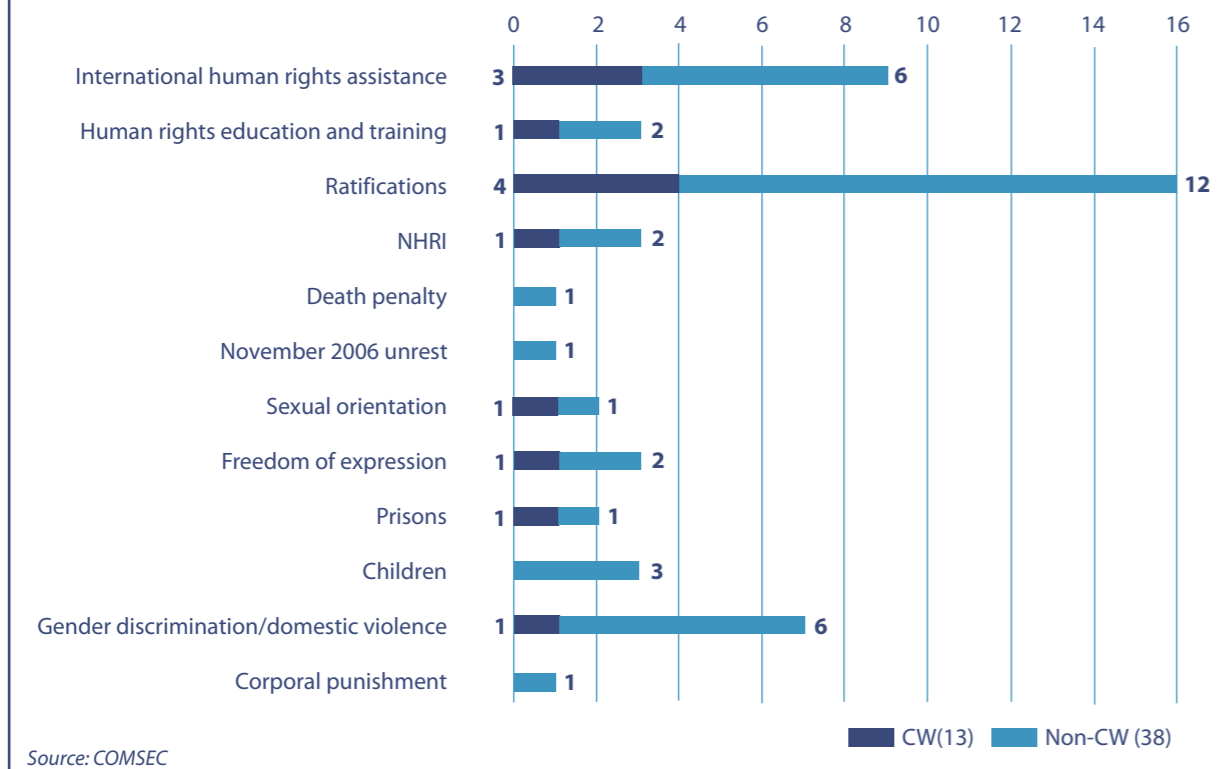
Table 9. Common Questions During the Interactive Dialogue in 2008 Asked of Commonwealth Member Countries



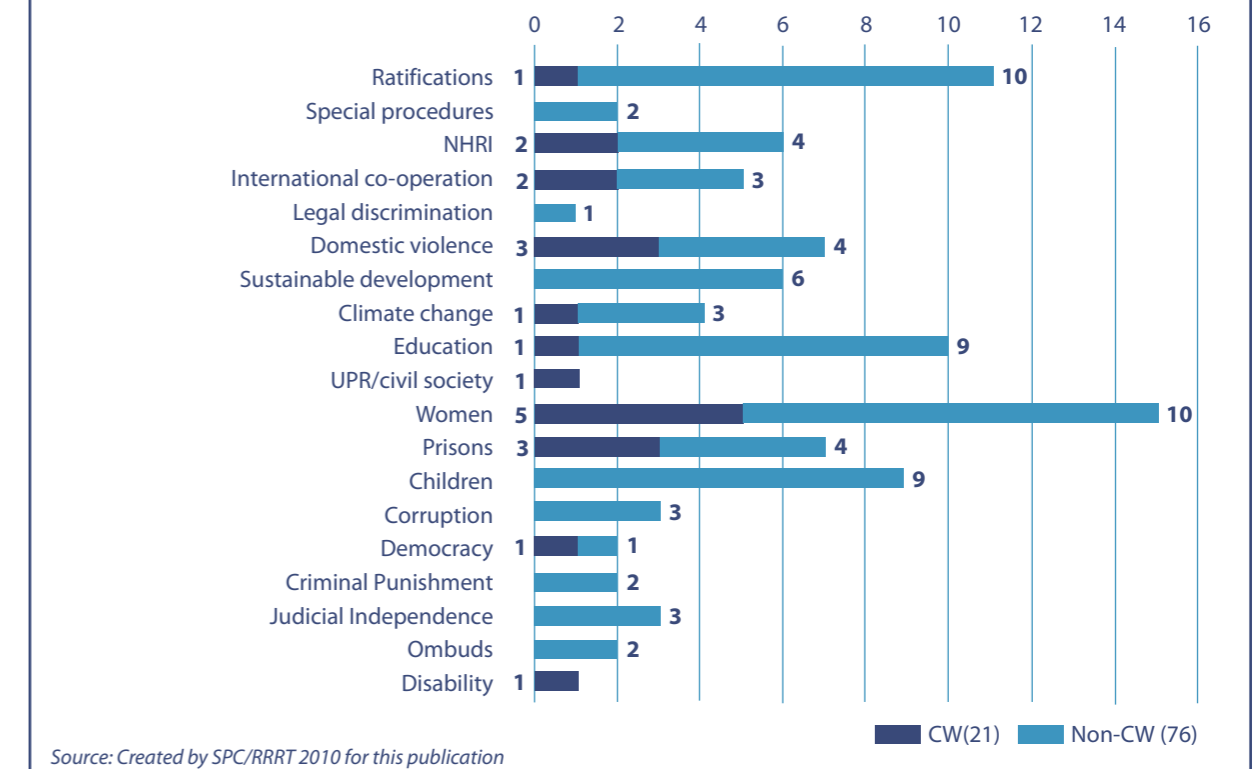
Questions for Tuvalu



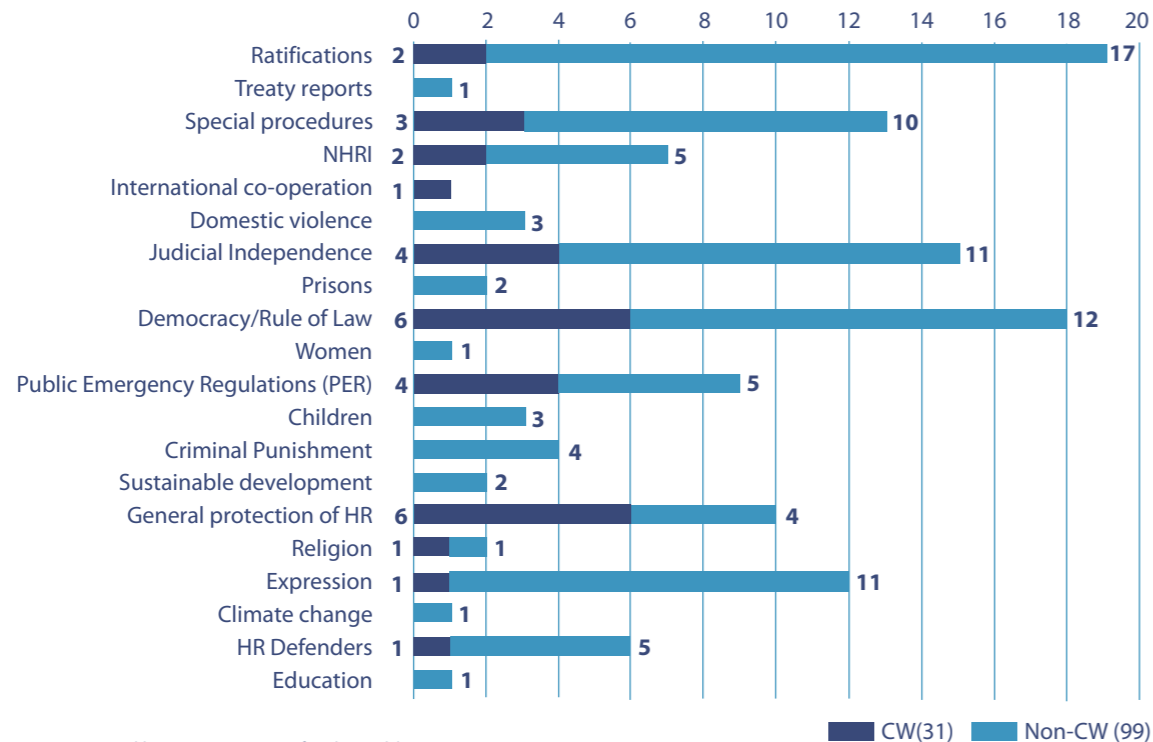
Questions for Tonga



Questions for Vanuatu



Questions for Fiji



Source: Created by SPC/RRRT 2010 for this publication

USEFUL TIP 13

It is possible to anticipate at least 80% of the questions. Use the Stakeholder Submissions and the thematic questions raised by members of the Human Rights Council. These questions can be addressed in the oral overview at the beginning of your country session, or answers can be prepared beforehand in anticipation of the questions during the dialogue.

USEFUL TIP 14

When presenting the report, highlight the key issues – do not read directly from the report.

The Council members do not give written records of their questions so make sure at least two people in your team record all the questions, preferably word for word. Be prepared with a laptop or plenty of writing paper.

The questions asked of the government delegations of Tonga, Tuvalu, Vanuatu, Fiji and Kiribati are good examples of the types of questions and the language used by the Council.

BOX 26 - The Tonga Experience

Thirty-four States made statements and asked questions during the Interactive Dialogue, including Australia and New Zealand⁹. Of these thirty four, twenty were members of the HRC, with the remaining fourteen being observer States. In the plenary of the HRC before the outcome report was adopted, seven States expressed views – three were members of the HRC (Qatar, Switzerland, United Kingdom) and four were observer States (Algeria, Maldives, Morocco, New Zealand).¹⁰

Tonga had a 3-hour session with Council. It gave an oral overview for 1 hour and then there were 2 hours of questions from other States. The recommendations by other States were either accepted or rejected by Tonga. In total, there were forty two recommendations, thirty one of which were accepted by Tonga, and eleven of which were rejected. The thirty one recommendations accepted by Tonga provided what is in reality a national plan of action for the next four years. It is a list of promises, given on the international stage, which Tonga has pledged to achieve.

Example of recommendations accepted by Tonga:

63. The recommendations formulated during the interactive dialogue have been examined by Tonga and the recommendations listed below enjoy the support of Tonga:
1. To continue the democratization process on which it has embarked so courageously (Holy See);
 3. To favourably consider ratifying the core international human rights and participating more fully with international human rights mechanisms, especially special procedures of the Human Rights Council (Mexico);
 4. To consider the institutional safeguards against harsh treatment by police and security forces (Canada);
 5. To ratify ICCPR and International Covenant on Economic Social and Cultural Rights (ICESCR) (Brazil, Czech Republic, Italy, Switzerland, Turkey, Netherlands); Convention for the Elimination of all forms of Discrimination Against Women (CEDAW) (Brazil, Czech);
 8. To submit regularly its reports to the treaty bodies of the conventions it is party to (Czech Republic);
 15. To share its experiences of the UPR with other Pacific Island States (Philippines);

The support requested by Tonga:

103. The Tongan Government invites the international community to consider providing technical assistance and financial support:
- with the reconciliation and civic education programme with the people of Tonga;
 - with the redrafting of the Kingdom's Constitutional arrangements and consequent legislative changes to bring these into political effect;
 - for any expanded rights and freedoms developed in conjunction with both constitutional and political reforms and international Treaty ratification; and
 - to the Civil Society Forum of Tonga (CSFT) to assist it in the valuable work of grass roots education and production of information for village communities about human rights especially at this time of proposed significant social change.

Source: Baird, 2008, OHCHR website, ISHR, 2008.

⁹ The others to make statements were Algeria, Azerbaijan, Bangladesh, Bhutan, Brazil, Canada, China, Cuba, Czech Republic, Egypt, France, Holy See, Israel, Italy, Japan, Republic of Korea, Latvia, Malaysia, Maldives, Mexico.

¹⁰ A/HRC/8/L.10/Rev.1, paragraphs 943-949

Delegation responses to questions

At the end of the list of questions (usually taken in groups) offer thanks and appreciation for the fruitful dialogue and positive responses from other countries and address the questions raised. As many countries are likely to ask similar or related questions, it is usually practical to respond to questions, not one by one or country by country or individually, but in groups under 'theme or subject headings – for example, gender equality, child rights, freedom of expression and so on.

It is important to offer specific examples showing specific action taken. Talk about measures taken. Speak of intentions and dispel any incorrect statements. This is your opportunity to clarify or dispel any misconceptions or misunderstanding.

At the end of 2 hours, make your concluding comments and final remarks and thank the States for their contributions.

The President then closes the session, thanking the delegation.

Chapter 11 The Outcome Report: Adoption by the Human Rights Council

What is the outcome of the review?

After the State review by the Working Group, a report is prepared by the troika with the involvement of the Pacific Island Country (PIC) under review and assistance from the Office of the High Commissioner for Human Rights (OHCHR). This report is called the "outcome report". It provides a summary of the actual discussion. It therefore, consists of the questions, comments and recommendations made by States to the Country Under Review (CUR), as well as the responses by the reviewed state.¹¹

Stakeholders comments before the Outcome Report

Before the Outcome Report is formally adopted, the Pacific Islands and other Stakeholders with Economic and Social Council of the United Nations (ECOSOC) status may make Statements at the Plenary Session of Council. It is the only time they are given a space to make comments. The comments are shown on the Human Rights Council (HRC) webcast, and are included in the webcast archive. These can be viewed at <http://www.un.org/webcast/unhrc/archive.asp>.

These comments do not have a bearing on the Outcome Report, which is in the hands of your PIC but they might have a bearing on how the Report is perceived by the international community.

Preparation of the outcome report

Meeting with the Troika & secretariat (directly after the presentation/questions)

The Troika is required to present the Outcome Report to the working group within 48 hours after the Session which reviews the PIC. It is the HRC's Secretariat's role to draft the first draft of the outcome report (staff at

the Secretariat do not sleep and draft it overnight). The list of country 'recommendations' is then given to the PIC delegation to go through and decide whether it supports or rejects each recommendation (based on the model handout). The delegation will be given samples of six to seven types of models of Outcome Reports to choose from. This is when the delegation decides which model it will go with to assist the secretariat in drafting the report.

The Troika, Secretariat staff and the PIC delegation meet and go through the recommendations section of the report step by step. The PIC delegation must be clear about which recommendations it will support and act on, which it supports in theory but will need time to work on and which it rejects (if any) – this is in line with the six 'models' it wishes to go with for its final outcome report. A sample of an Outcome Report is attached as Annex 6.

Terms like 'urge' and 'encourage' used by the countries during the dialogue often need clarification – i.e. they may have been intended as recommendations – and this will be clarified by the secretariat with the country itself.

11 (<http://www.ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx>)

Further meetings on the draft Outcome Report

A day later the delegation, the secretariat and Troika meet again to go through the final draft report before it is adopted by the Working Group (WG) in plenary.

NOTE 1:

Removing discrimination on the basis of sexual orientation and abolition of the death penalty are often controversial issues and a number of countries will not accept such recommendations.

Adoption of the Outcome Report by the Working Group

The Working Group allocates a maximum of 30 minutes to the consideration and adoption of each outcome document no less than 48 hours after the review. In Tuvalu's case the meetings were on Friday and then Monday morning, and then one week later on a Friday afternoon, the report was adopted. The Working Group country reports are adopted ad referendum leaving two

weeks for States to make editorial changes to their own statements. Each PIC will be given the opportunity to indicate whether or not it supports the conclusions/recommendations contained in the outcome document. It can do this at three different stage of the UPR process:

1. During the meeting of the Working Group;
2. Between the Working Group's session and the Council's next session; or
3. During the meeting of the Council to adopt the Working Group's outcome document.

The 'Outcome Report' follows a particular, strict format as follows:

- Introduction
- Summary
- Country questions/statements
- Recommendations

Recommendations supported by the State are identified as such in the outcome document; recommendations that are not supported by the State are noted in the outcome document, together with any comments that the State may have on them.

Table 10. Pacific Island Countries UPR Showing Recommendations Accepted

TYPE OF RECOMMENDATION	NUMBER OF RECOMMENDATIONS		
	Accepted by Tonga	Accepted by Tuvalu	Accepted by Vanuatu
Ratification	4	3	2
Reporting	3	1	
UN Special Procedures	2	1	1
National Human Rights Institutions	3	5	2
Judiciary		1	1
Democracy	2		1
Women	5	2	9
Children		3	3
People with Disability	1	1	1
General Human Rights Protection	2	2	1
Education	2	4	6
Health			2
Prisons			4
Security Forces	2		
Domestic Violence	1	1	4
Corruption	1		2
Free expression	2		
Climate Change		1	1
International Cooperation	6	2	5
Civil Society	1	1	1
Miscellaneous		3	

Adoption of outcome report by the Human Rights Council

Once adopted by the Working Group on the Universal Periodic Review (UPR), the report on each reviewed country is sent to the Human Rights Council, for its adoption. Remember this is essentially the same body and same members but wearing different hats. The Council normally considers and adopts these outcome documents at its next regular session, allocating up to an hour to each. At this stage again, before each outcome document is adopted, the PIC under review will be offered the opportunity to present its views on the conclusions and recommendations, on voluntary pledges and commitments, and to present replies to

questions or issues that were not sufficiently addressed during the Working Group's interactive dialogue, as well as their views on the Outcome Report. Time is also given to Council members and observer States who may wish to express their opinion on the outcome of the review and for Non-Government Organisations (NGOs) and other Stakeholders to make general comments. When adopting outcome documents, the Council also decides if and when any specific follow-up to the review is necessary.

The finalised report is then adopted by the next following HRC session (eg. 10th session on March 2009 for Tuvalu). Thus, Tuvalu reported in December 2008, and the finalised report was adopted in March 2009.

BOX 27 - Adopting the Tuvalu UPR Report by Filiga Taukiei of Tuvalu

As any other reporting mechanism, the UPR has an introduction, intensive dialogue in between and an adoption at the end. Regrettably, my experience relates only to the preparation and the adoption phases of the process.

I represented Tuvalu to the adoption session of our inaugural national UPR Report in March 2009.

The distance, the sleepless nights and the long flights that delegations from the Pacific endure in undertaking journeys to the northern hemisphere is a journey that would be familiar to all delegates from Pacific Island Countries. I finally arrived in Geneva, Switzerland.

My travel nightmare continued, as I made my way to the UN Headquarters, which I was told was near my hotel. Armed with my map, it took me 2 hours of walking around before I finally arrived at the UN compound. I managed to locate the conference room in advance of my allocated time, giving me enough time to revisit my presentation.

I met with the Secretariat before the session and was briefed on the procedures with minor changes to our Report.

To subdue my anxiety as I entered the room, I constantly remind myself that I was there to represent Tuvalu and to tell the world that Tuvalu, with limited resources, expertise, small in population and size and fairly remote, was prepared to make a commitment to conclude and adopt its first UPR Report and reaffirm its commitment to the success and continuity of the UPR process.

I presented my opening remarks and Tuvalu's response to the recommendations made during the reporting session in 2008, which took approximately 20 minutes. The Floor was open for final remarks and New Zealand, England and three international organisations seized that opportunity. In concluding, Tuvalu reaffirmed its commitment to the UPR and further seeks the assistance and cooperation of the international community in fulfilling the recommendations before 2013.

Less than 24 hours later, and much relieved, I was back on the plane returning to my island home.

Chapter 12 Returning Home - What Next?

The UPR experience for Pacific Island Countries (PICs) should not end on returning home – it is an ongoing process where Council recommendations should be implemented and lessons learnt put to good use. The Universal Periodic Review (UPR) process would have no real and lasting value unless the promises made in it and agreed to by PICs in Geneva, are followed up, on the ground, back at home in the Pacific islands. The UPR's most important function is to provide some measure of human rights accountability for us Pacific Island citizens. It is our responsibility to monitor that the promises made are kept.

When our countries return to Geneva for the second UPR review, they must provide information on what they have been doing to implement the recommendations made during the first review four years earlier. The international community will assist in implementing the recommendations and conclusions regarding capacity-building and technical assistance, in consultation with the country concerned.

Four years is a very short period. It is important that PICs remember their promises and seek technical and financial support to fulfil their obligations before the second review.

Table 11. PICs' First and Second UPRs Schedule

PIC First UPR	PIC Second UPR
Tonga, March 2008	March 2012
Tuvalu, December 2008	December 2012
Vanuatu, May 2009	May 2013
Fiji, February 2010	February, 2014
Kiribati, May 2010	May, 2014

What happens if a State is not cooperating with the UPR?

The Human Rights Council (HRC) has indicated that it will decide on the measures it would need to take in case of persistent non-cooperation by a State with the UPR. The nature of these measures is not clear.

Who is responsible for implementing the recommendations and promises?

Although it is primarily the responsibility of States, as the main duty bearers of human rights obligations to implement their own review outcomes (including conclusions and recommendations, and voluntary pledges and commitments), it is also of critical importance that other relevant Stakeholders, including civil society actors, have a role to play in the implementation.

Share the experience back home

On returning from Geneva, it is important that both the government and Stakeholders formally report back to partners and contributors to their Reports. This should include a summation of the oral presentations, the Council's questions, the PIC State's responses and the wide distribution of the Outcome Report.

Delegation members should also openly share their experiences as lessons learnt that can be put to use not only in relation to the UPR, but for any UN reporting process. There are numerous ways to do this:

- Get the media on board – hold a press conference or set up radio, television and newspaper interviews to bring the UPR experience to the public
- Hold public or student seminars
- Arrange meetings with donors and regional organisations dealing with human rights
- Organise workshops for government or Non Government Organisation (NGO) groups preparing to write and present their own UN reports
- Offer to act as a resource person for groups writing reports

If the State does not do this, the Stakeholders are likely to do so, therefore it is prudent for the State to take the initiative.

What can civil society do?

Civil society actors, including human rights organisations and defenders, NGOs, academia, the media, trade unions and professional groups, can work on follow-up to UPR outcomes in a number of ways, for instance:¹²

- Working with national entities (including Government, parliament, the judiciary and others) to help the State meet its obligations; civil society often acts as a catalyst to promote national legislative reforms and develop national policies. It can also use the UPR outcomes as a basis for dialogue with State entities and for defining its own programmes of action;
- Monitoring the human rights situation and steps taken locally to implement UPR outcomes;
- Raising awareness about the UPR, the outcomes States are required to implement, and how outcomes can be used to improve the enjoyment of human rights nationally. This may be done by organizing thematic discussions, round tables, seminars and workshops, translating and publishing

UPR outcomes and working with National Human Rights Institutions (NHRIs) and the national media, and by raising awareness of UPR outcomes among the general public and civil society;

- Engaging with national entities towards the preparation of information for the next periodic review; and
- Collaborating with other civil society actors in the preparation and submission to OHCHR of follow-up information on the implementation of UPR outcomes.

Make the most of the Outcome Report

The Outcome Report can be used to create dialogue and publicise key issues back home. It provides a good basis for advocacy strategies and publicity activities centred on human rights. They can also be used to monitor government activities between now and its next report, in four years time.

Table 12. Monitoring Progress of Commitments made to the Human Rights Council

TUVALU promised the HRC in Dec 08	Dec 2009 Progress update	Dec 2010	Dec 2011 2012 Appearing again at HRC
To establish an NHRI or Reproductive Health Response in Conflict (RHRC)			
Amend constitution to outlaw sex/gender discrimination			
Amend Violence Against Women (VAW) laws			

12 OHCHR, 2008

Part Five

Other Matters for Consideration

Chapter 13

Where can the Funds & Technical Assistance be Found?

One of the main arguments or reasons given by governments, including PIC Governments, for not submitting reports to the human rights treaty bodies is that they don't have the financial resources and technical (human rights) capacity to prepare them.

Everyone has a legal obligation to obey the laws of the country in which they live whether they like it or not. In the same way, States parties must obey international law – especially if they have ratified a convention. In addition, by virtue of membership of the UN, certain legal obligations exist. One of those is the mandatory obligation for every UN Member to report to the Human Rights Council in the Universal Periodic Review process. One of the reasons for creating the UPR process was to ensure that every member of the UN, even those who had not signed any human rights treaty, became accountable for human rights compliance before the global community.

NOTE 2:

It is important to remember that if you fulfil your commitments on Universal Periodic Review (UPR) to Human Rights Council (HRC) you will also be fulfilling some of your human rights treaty obligations under various treaties like Convention for the Elimination of all forms of Discrimination Against Women (CEDAW) and International Covenant on Civil and Political Rights (ICCPR).

It is important to remember that if you fulfil your commitments on UPR to HRC you will also be fulfilling some of your human rights treaty obligations under various treaties like CEDAW and ICCPR.

BOX 28 – The Voluntary Trust Fund

The Voluntary Trust Fund for Participation in the UPR Mechanism is established as a financial mechanism to provide:

1. Funding for the travel of official representatives of developing countries and in particular the least developed countries, to Geneva to present the national report, take part in the ensuing inter-active dialogue and be involved in the adoption of the report in the UPR Working Group sessions during which their country is considered;
2. Funding for the travel of official representatives of developing countries and in particular the least developed countries which are members of the Human Rights Council and which do not have a permanent mission in Geneva, to act as Rapporteur (i.e. member of the "Troika"); and
3. Training for Member States in the preparation of national Reports.

How to ask for funding?

Application for financial assistance

Financial assistance from the Voluntary Trust Fund may be requested by any developing country, in particular the least developed countries which are Members of the United Nations.

Travel

Reimbursement of travel expenses to attend the meetings of the UPR Working Group will cover:

1. One round-trip economy class ticket per delegation for a representative not residing in Geneva;
2. Three days of Daily Subsistence Allowance (DSA) at the Geneva rate at the time of the meeting, in order to enable one representative, not residing in Geneva, to participate in the adoption of the Report of the UPR Working Group following the review.

Requests for financial assistance should be submitted, at latest, six weeks before the beginning of the UPR Working Group session to which the representative will be travelling. Subject to the availability of funds, confirmation of approval will be returned with an indication of the maximum ticket cost to be reimbursed, in accordance with the applicable United Nations rules and procedures for official travel. Exceptionally, for the first and second sessions of the UPR Working Group, the Secretariat will accept requests for financial assistance during the session.

Reimbursement of travel expenses will be made by the United Nations after completion of such travel and on receipt of a claim with supporting documentation, within the above-mentioned conditions, directly to the government concerned, normally through the permanent mission in Geneva or New York.

Training in the preparation of the reports

Request for training shall be accompanied by:

1. A detailed description of the proposed training course for the preparation of national reports; and
2. Information on training arrangements, including location, facilities, logistical aspects, number and position of trainees.

An itemized statement of the estimated cost for which assistance is requested, including costs for travel of Office of the High Commissioner for Human Rights (OHCHR) staff, if applicable.

BOX 29 - The Voluntary Trust Fund & the Voluntary Fund for Financial and Technical Assistance

Two financial mechanisms, the Universal Periodic Review Voluntary Trust Fund and the Voluntary Fund for Financial and Technical Assistance have been established to facilitate the participation of developing countries (particularly the least developed countries) in the UPR mechanism and support its follow-up at country level, respectively.

(There is also to be a Voluntary Fund for Financial and Technical Assistance to assist in implementing recommendations from the UPR process. Details are not yet available.)

For governments...

Governments seeking financial assistance must be clear on the activities that they want funded. This is best outlined in a formal proposal. Funds will be needed to cover a wide variety of expenses, from consultations when compiling the report, to translators and administration costs, to travel and accommodation when presenting the report in Geneva.

For NGOs...

Prepare a short proposal outlining the importance of compiling Stakeholders Submissions and sending a delegation to Geneva. Going to Geneva for two-three weeks is a very expensive exercise – use the information in this Roadmap to justify your proposal. Prepare a proper budget with quotes from travel agencies, etc. Explain the composition and justification for the delegation (i.e. why certain individuals have been chosen).

Experience has shown that, while in theory governments and donors are supportive of Stakeholder Submissions, they may not be so keen to fund the initiative. Many donors are concerned that financial or technical support to Stakeholders to write Submissions or monitor the process in Geneva might be viewed by governments as interference in the internal governance of the country. There is a strong need to educate governments and donors that human rights reporting is a legitimate part of the reporting process – this can be done in the proposal.

Who to ask

There are a number of donor agencies funding activities in the Pacific Island Countries (PICs) – all can be approached without any fear that financial assistance will give it any veto over the report's content. If you belong to a women's rights Non-Government Organisation (NGO) then approach the International Women's Rights Action Watch Asia Pacific which will fund one female NGO participant to the UPR (iwwrap@iwwrap-ap.org.)

Other donors in the Pacific include:

- Australian Agency for International Development (AusAID)
- New Zealand Aid Programme
- European Union
- United Kingdom Department For International Development (UK DFID)
- United Nations Office of the High Commissioner for Human Rights (OHCHR)
- United Nations Development Programme (UNDP) (For government only)

Some regional agencies will also be able to offer technical assistance in the form of information, data,

statistics, sectoral reports, as well as technical support for report writing. These include:

- The Pacific Regional Rights Resource Team of the Secretariat of the Pacific Community (SPC/RRRT)
- United Nations Office of the High Commissioner for Human Rights (OHCHR)

SPC/RRRT also provides technical support with its own funding to assist government delegations in Geneva during a PICs first review. A formal letter of request is needed from the Pacific country's Ministry of Foreign Affairs to the Secretary General of the Secretariat of the Pacific Community.

USEFUL TIP 15

If NGOs are unable to find funds to go to Geneva, contact an international human rights NGO based in Geneva to monitor your country's presentation and, if necessary and strategic, to make an oral presentation on your behalf during the Plenary session of the Human Rights . Some of these NGOs include UPR-INFO.ORG, Amnesty International, Human Rights Watch, and Mandat International.

BOX 30 - Office of the High Commission for Human Rights (OHCHR) Resources

www.ohchr.org

OHCHR has an office in the Pacific based in Suva, Fiji:

c/o UNDP Office

Private Mail Bag, Suva, Fiji Islands

Email: Ohchr.pacific_office@undp.org

Universal Periodic Review (UPR) web page

Civil society actors are encouraged to regularly consult the UPR section of the OHCHR website for updates and information on the Working Group's sessions.

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

Human Rights Council web page

Civil society actors are encouraged to regularly consult the Council's section of the OHCHR website for updates and information on its sessions. Session-specific information is normally posted on the web page two weeks before each regular session.

<http://www2.ohchr.org/english/bodies/hrcouncil/>

Extranet

The Extranet is linked to the Human Rights Council's homepage. It contains a dedicated UPR page with information specific to each session of the Working Group, including:

- The States (to be) reviewed at the session;
- The documents on which reviews are/were based;
- Questions submitted to States under review by the Council's member States in advance of reviews;
- Oral statements made by member and observers States at reviews; and
- Outcome documents adopted by the Working Group.

To access the password-protected Extranet page, fill in the online form available. When you have done this you will receive a username and password by e-mail.

Webcast

The Working Group's sessions can be viewed live on the Human Rights Council's webcast. The webcast site also contains archived video of its previous sessions. To view the webcast you will need to download the appropriate software.

<http://www.un.org/webcast/unhrc/index.asp>

Log on and see Tonga, Tuvalu, Vanuatu, Fiji and Kiribati in action.

Chapter 14 Why Cover the Universal Periodical Review (UPR) Story?

Human rights are the collective responsibility for all and therefore the media should play an active role in reporting on human rights issues to the public.

For the most part, media coverage on human rights is less than satisfactory with the tendency to highlight only extreme situations of human rights violations. But this doesn't have to be the case. The media, government and NGOs can all work towards highlighting human rights issues and concerns, and translating often complex issues into language that is more meaningful and relevant to the Pacific region.

The media in the Pacific region should consider reporting on human rights issues in a manner that promotes both awareness as well as provides solutions to human rights problems. This would include more in-depth human rights analysis of legislation, policies and public debates. The media should also have a good understanding of the various UN mechanisms that support human rights work, including the conventions which Pacific island nations have ratified. Again, the media should "translate" these often complex conventions into language that people can relate to. Human rights needs to be made relevant to people's political conditions, cultures and circumstances.

One of the main challenges is how to relate human rights with the Pacific notion of community rights. While human rights is based on assumptions regarding the primacy of individual rights, the cultural notion of community rights is often considered more basic in many Pacific communities. The need to engage and balance the two is crucial in terms of ensuring acceptance by the community.

The Pacific's media can make a difference to the best practice of human rights in the Pacific region by promoting human rights issues raised in the UPR process.

Covering the UPR at home

What stories can come out of the UPR?

Reporters tend to write about stories that have a potential conflict, or feature issues of inequality and unfairness – a buyer didn't get what he or she paid for, a politician didn't deliver what he or she promised.

The UPR and the issues involved can also be exciting stories worth covering. If the legal systems and constitutions of our countries are founded on equality and freedom, what are we doing with laws and practices that discriminate against marginalized groups? How does this discrimination affect equality in the workplace, in schools, in marriage, in our cultures and families? What have we done about this discrimination? What should we do?

Good reporting on the UPR is about looking at what the Universal Declaration of Human Rights (UDHR) and other ratified treaties really mean for Pacific citizens, looking into the stories behind the articles, linking those stories to real lives and situations in the communities. The UDHR articles provide an excellent guide to the issues journalists can cover. The UDHR can help a journalist look at the situation of human rights in his or her country, article theme by article theme.

Take Article 19, about free speech (see Annex 3 UDHR). Is there freedom of speech in your country? Is there any independent radio, newspaper or TV in your country? Is there direct or indirect censorship of the media?

Or consider Article 25, the rights to an adequate standard of living, health, etc. These rights are closely linked to development rights promised by all Pacific Island Country (PIC) governments to Pacific Islanders, including in The Pacific Plan and the Millennium Development Goals. Framing freedom from hunger, want, shelter and food in the language of rights, instead of in the language of subservience and welfare beneficiaries, can be empowering and make for good copy.

These two areas alone will lead to stories of interest because discrimination, especially when it happens under our very noses, is something people should be informed about – it is in the public interest to know. It is a major development issue too, because when poor people are being held back by structural and systemic discrimination from full participation in development, the country is basically being held back.

Reporting on the UPR in-country

For media professionals, the first step in covering UPR issues locally should be to find out the status of human rights compliance in their country: what human rights treaties has the government ratified besides the Convention for the Elimination of all forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC)? Has it placed reservations on any article? Has or will it be reporting to any of the human rights treaty bodies in the near future? Is there an NGO Shadow Report on any of the treaties? What are other NGO Stakeholders, Church or environmental groups saying about human rights? Are they critical of their government's human rights records? Are copies of current or past reports available?

A PIC however, does not need to have ratified any human rights treaty for a journalist to report on the issues it addresses. Under the UPR it is irrelevant as every member of the UN must report to the Human Rights Council. Tonga for example reported in the first session of the UPR in March 2008, and did so making thirty one promises and commitments to improve human rights in Tonga.

A good area for copy is equality between men and women. This is something Pacific Island leaders have already committed to through the Biketawa Declaration, which they signed at the Pacific Islands Forum meeting in Kiribati in 2000, as well as in the Pacific Plan in 2005. A government may have also signed other conventions or declarations that commit them to the principles of equality and non-discrimination. They may already be incorporated into their national constitution and legislation.

The principles as outlined in the UDHR can be covered as meaningful stories whether a country has ratified a convention or not.

Media advocacy at home

The responsibility of informing communities about what the UPR means, and making the most of the media, lies with those government and NGOs involved with the UPR and human rights. Networks can be used to gather vital information and skills in creating words and images used to make human rights and the UDHR a highly relevant, living human rights instrument is a help, not a hindrance, towards a better deal for Pacific Islanders.

To stir up the debate, think about the audience. A media campaign may be necessary to start up public discussion. How the debate is planned depends on networks in-country, relationships with contacts in government and the non-government sector, and the personal faith held in the role of the media and quality of coverage in your country.

Ways of informing people or creating attention around the UPR and human rights could include:

- Organising a talkback session about the UDHR on the local radio station
- Simplifying the UDHR and translating it into the local language (if this has not already been done)
- On-the-street opinion polls asking people what the UDHR is (for journalists in particular)

Covering the UPR in Geneva

Attending a reporting session

Covering a Pacific Islands nation UPR reporting session – as an independent journalist, a journalist accompanying one of the delegations, or as a member of one of the delegations acting as media liaison – is a dynamic and exciting experience.

It is here journalists will hear comprehensive national reports by government on the status of human rights in the reporting country. And most importantly, it is here they will gain access to information, debate and advice about the steps being made towards eliminating violations of human rights.

It is essential that both the State Reports as well as Stakeholders' submissions are covered to get the full picture of the situation of human rights in the country. The Stakeholder submissions will serve as an invaluable guide to areas that might need special attention – it adds to the information in the State Report by filling in any gaps or providing another side to the story. These Reports will then basically serve as an article-by-article revelation of UDHR stories on actions taken in our Pacific Island countries.

Funding

Given the high cost of attending any meeting in Geneva York, it will probably be necessary to send a proposal to an interested donor, particularly one that may be assisting with funding for the official and/or Stakeholders. (See Chapter 13 for more information.)

However, before asking for funding, identify possible publishers or producers for your stories; firstly because it is good to maximise the spread of stories filed, and secondly because funding supporters want to know if their investment is going to be worth it.

NOTE 3:

The Tuvalu experience was widely reported back home at the time. See Annex 8 for a sample press release.

Requests for logistical or financial advice could also be sought from the Pacific Islands News Association (PINA) – the leading regional media organisation. PINA would most likely send reporters from its regional network to cover events for the region.

However, if PINA is not planning to cover the event, they may be keen to run any stories filed. Send copies of your press releases to PINA for inclusion in PACNEWS via email pacnews1@connect.com.fj.

Accreditation

The best way to get into the UN system and have access to your delegates is to be part of the government delegation itself. While media workers tend to have separate accreditation for UN meetings, to avoid reporters badgering and filming delegates without their permission, being on the official delegation gives the media worker roaming and access privileges in the UN which are hard to beat. Of course, the journalist needs to ensure that this inclusion in the delegation is not problematic in terms of independent coverage of the session, especially given the shadow reporting process, which requires working closely with the NGOs/other Stakeholders. If the journalist cannot get on the country team then try the NGO team and, if all else fails, apply for media accreditation.

If you are a member of the government or Stakeholder/NGO delegation, the accreditation process starts at home with the initial registration process (see Chapter 9).

If the journalist is part of a delegation, accreditation can be obtained from the UN Human Rights Council / Office of the High Commissioner for Human Rights (OHCHR). This process should start from home – talk to the Pacific Office of OHCHR who might be able to assist you.

Covering media must submit a request for UN access on letterhead to the UN Accreditation Office (fax: 1-212-963-4642) and then call (1-212-963-6934) to confirm the fax has been received. Print journalists and photographers may also be required to submit proof of publication.

Once the request is verified, the official pass must be collected before the meeting opens at UNOG Security and Safety Section, Pregny Gate, 8 - 14 Avenue de la Paix, 1211 Geneva 10, Pass and Identification Unit. Two forms of photo ID and a passport with the appropriate

journalist visa will be required and it is sometimes useful to take a copy of a letter from the employer. Finally, and most importantly, allow plenty of time to collect the pass, as lines can be extremely long. For further information see the UN website, www.unog.ch.

Never forget to wear the photo ID – UN security is very strict and will not allow anyone into the session without it. If intending to attend UN meetings on a regular basis, return the pass to the centre at the end of the session – and accreditation will not have to be sought the next time.

Filing stories

The UN provides some computers with free Internet access during the reporting sessions. They are available to all delegates first thing in the morning until late at night – but demand can be quite high. Hotels offer Internet access at a cost, but 24-hour Internet cafes are a cheaper alternative. Phone booths are also located near the meeting venue for filing voice reports and interviews. If sending images or sound, check with the UN Public Information officials. For those working with vision, UN TV has a stock library of images and takes requests for images. All footage used must be credited, and charges may apply.

Permission

As a matter of protocol, if the journalist wishes to photograph or film the reporting session, permission must be sought from the session chairperson well before the meeting. The journalist should also distribute a short letter informing participants.

Reporting from home

If travel to Geneva is impossible due to lack of funding, the reporting process can still be covered via the Internet. Keep an eye on the OHCHR website for news releases and updates of the daily sessions compiled by the rapporteurs. These give a detailed account of sessions and are great for a rundown of the process as it affects the reporting countries.

For images, a delegation member could take a digital camera and email photographs of the event. For television, a photo and some footage of a delegation member could run with a phone interview. For radio, a phone interview could be broadcast. Either way, a panel discussion on the issues being debated in Geneva provides a timely link between the country's report to the UN, and the audience at home.

Note that in addition to any photos taken at the event, all UPR reporting sessions are available on the internet and you can watch your countries reporting session in

USEFUL TIP 16

- Use the UN information officers for background on the meeting and information on getting round the system. Take a look at the UN website for history and up-to-date information on the UPR meetings in progress. The Australian and New Zealand missions are also good sources of information and have helpful staff.
- Feed body and mind: The UN might be a daunting place, but a handy place to find people and network such as at the cafeteria and the Serpentine Bar (just follow the crowd). Human Rights Council members go there to relax alongside government and NGO delegates, UN staff, people attending other meetings, and journalists.
- Compile a list of hotel phone contacts for members of the government and NGO delegations, as well as the missions and offices they are likely to spend time in.

action. Log into the OHCHR webcast at <http://www.un.org/webcast/unhrc/index.asp> to watch either the live or archived proceedings.

Back home: what next?

The UPR reporting process is an ongoing one. There are a few key issues to consider on returning home:

- The UPR can be seen as a measuring or monitoring tool. In four years time our country will again be reporting before the Human Rights Council. What promises were made to change what? Every year this can be monitored and reported on to see whether our governments are keeping their promises.
- Be aware that public interest in any issue will never maintain a permanent high, no matter how important. Know when to raise the issues. Know when we need to be reminded about reporting obligations. Use trigger events to link us back to articles (such as December 10, International Human Rights Day) or ask those compiling and working on the report to hold regular media conferences.

And most of all enjoy the process of widening debate in local communities on areas that they may be suffering in.

Chapter 15

How to Get In and Around Geneva

If you are in Geneva from the time your country's Report is presented to the Working Group (WG) of the Council, to participating in the plenary session of the Human Rights Council, you will be looking at roughly one week and usually completes within the week for your trip. Geneva is an old city with an incredible history. It is a regional centre for the UN in Europe. The Universal Periodic Review (UPR) reporting process for Pacific Island Countries (PICs) is a good chance to tell PIC stories in Geneva. Try to use the opportunity to meet other organisations and UN bodies while you are there.



The Tuvalu Delegation in warm clothes: Mr Enele Sopoanga, Ms Imrana Jalal, Mr Seve Lausaveve, Ms Manaema Saitala, Ms Eselealofa Apinelu. Photo credit SPC/RRRT

The weather in Geneva and warm clothes

During two of the three sessions of the UPR every year (February and December) it is extremely cold and most Pacific Islanders do not have heavy winter clothes. In December it will be snowing. Ensure that you have enough warm clothes, or are able to borrow winter clothes. Certainly you would need a heavy winter coat, a thick scarf for your neck, good warm walking shoes or winter boots (if you can), thick socks and an umbrella. A warm hat is also a very handy item. Buying winter clothes is an additional cost that needs to be factored in when writing your funding proposal.

Getting a visa

Since April 2009, it is no longer possible to get into Switzerland without a visa. You can get a Schengen visa from the French Embassy in your country, or in Suva, Fiji. This means that your trip will possibly need to be routed through Fiji.

Arriving in Geneva

If arriving late, change some money in advance or in transit as the money exchange at the airport is likely to be closed. Bus No. 28 will take you right past the Palais de Nations (the UN Centre in Geneva) and to Lausanne, where many of the hotels are based. Try and get accommodation near the UN Centre if possible.

Transport

If you are checking into a hotel, some hotels do have special provisions for transport, make sure you check your hotel's website to see whether transport, internet and other facilities are provided. Hotels near the UN Centre on Rue de Lausanne where Hotel Mon Repos is are within walking distance. The public transport system (train, tram, bus) in Geneva is excellent and affordable.

USEFUL TIP 17

Most PICs do not have a mission in Geneva. This makes matters very difficult. The NZ mission in Geneva however, is the Chair of the Friends of the Small Island States and has been very helpful to PIC delegations. They have indicated a willingness to help. Their contact details are:

Wendy Hinton
Deputy Permanent Representative
to the United Nations
2, chemi des Fins
Grand- Saconnex, Geneva
P.O Box 334 – 1211 Geneva 19
Switzerland
DD + 41 22 929 03 55
M – +41 22 929 03 55 • F + 41 22 929 03 74
E – wendy.hinton@mfat.gov.nz

Accommodation

Accommodation in Geneva is extremely expensive. However now with internet search engines, it is possible to find relatively inexpensive hotels close to the UN Centre. If you have a mission in Geneva, they can assist, otherwise you can contact the Mandat International Centre which assists delegates in Geneva. <http://www.mandint.org/en/guides-brochures>

Part Six

ANNEXES

Annex 1

Information & Guidelines for Relevant Stakeholders on the Universal Periodic Review (UPR) Mechanism

As of July 2008

(Source: <http://www.ohchr.org/EN/HRBodies/UPR/Documents/TechnicalGuideEN.pdf>)

I. BACKGROUND

- The Universal Periodic Review (UPR), established by General Assembly resolution 60/251 of 15 March 2006, is a new human rights mechanism. Through the UPR, the Human Rights Council (HRC) reviews, on a periodic basis, the fulfillment by each of the United Nations' 192 Member States of their human rights obligations and commitments. Resolution 60/251 provides that the UPR shall:²
 - Be based on objective and reliable information of the fulfillment by each State of its human rights obligations and commitments;
 - Be conducted in a manner which ensures universality of coverage and equal treatment with respect to all States;
 - Be a cooperative mechanism, based on an interactive dialogue, with the full involvement of the country concerned and with consideration given to its capacity-building needs; and
 - Complement and not duplicate the work of treaty bodies.
- HRC resolution 5/1 of 18 June 2007 provides that the UPR should „ensure the participation of all relevant stakeholders, including non-governmental organizations and national human rights institutions, in accordance with General Assembly resolution 60/251 of 15 March 2006 and Economic and Social Council resolution 1996/31 of 25 July 1996, as well as any decisions that the Council may take in this regard.“³

II. BASIS OF THE REVIEW

- States are reviewed on the basis of:⁴
 - The Charter of the UN;
 - The Universal Declaration of Human Rights;
 - Human rights instruments to which the State is party;
 - Voluntary pledges and commitments, including (where relevant) those undertaken when presenting candidature for election to the HRC; and
 - Applicable international humanitarian law.

¹ Stakeholders, which are referred to in resolution 5/1, include, inter alia, NGOs, national human rights institutions, human rights defenders, academic institutions and research institutes, regional organizations, as well as civil society representatives.

² See operative paragraph (op.) 5(e). ³ See para 3(m) of the Annex to resolution 5/1. ⁴ See para 1 of the Annex to resolution 5/1.

III. UNIVERSAL PERIODIC REVIEW AS A PROCESS

4. Reviewing all 192 UN Member States over a four-year cycle, the UPR is to be seen as a process consisting of several steps:
 - Preparation of the information upon which reviews are based, including: (i) information prepared by the State under review (national report); (ii) a compilation of UN information on the State under review prepared by the OHCHR, and (iii) a summary of information submitted by other relevant stakeholders, also prepared by OHCHR. The UPR review is based on these three documents, all of which are public;
 - The review itself takes place in Geneva in the Working Group on the UPR, composed of the 47 Member States of the HRC, and takes the form of an interactive dialogue held between the State under review and the Member and Observer States of the HRC. The Working Group meets in three two-week sessions each year and reviews 16 States at each session - a total of 48 States each year;
 - The Working Group's adoption of an outcome document at the end of each review;
 - The HRC's consideration and adoption of the UPR outcome, normally at the next regular HRC session; and
 - Follow-up by reviewed States on the implementation of the conclusions and recommendations contained within outcome documents.
5. The participation of all relevant stakeholders is encouraged throughout all relevant steps of the process. According to Human Rights Council resolution 5/1 of 18 June 2007:
 - (a) States are encouraged to prepare the information they submit "through a broad consultation process at the national level with all relevant stakeholders" (paragraph 15 (a));
 - (b) Other relevant stakeholders may submit additional, credible and reliable information to the universal periodic review. Input received from stakeholders will be summarized by the Office of the High Commissioner for Human Rights in a Summary of Stakeholders' information which shall not exceed 10 pages (paragraph 15 (c));
 - (c) Other relevant stakeholders may attend the review in the working group (paragraph. 18 (c)), while not taking active part in the interactive dialogue;
 - (d) Before the adoption of the outcome by the plenary of the Council, the State concerned is offered the opportunity to present replies to questions or issues; Other relevant stakeholders will have the opportunity to make general comments before the adoption of the outcome by the plenary (paragraphs 29 and 31);
 - (e) The outcome of the universal periodic review, as a cooperative mechanism, should be implemented primarily by the State concerned and, as appropriate, by other relevant stakeholders (paragraph 33).

IV. CONTRIBUTING WRITTEN SUBMISSIONS TOWARDS THE UPR PROCESS

A. Documentation upon which reviews are based

6. The documents on which reviews are based are:⁵
 - (a) Information prepared by the State concerned, which can take the form of a national report, on the basis of General Guidelines adopted by the HRC at its sixth session, and any other information considered relevant by the State concerned, which could be presented either orally or in writing, provided that the written presentation summarizing the information will not exceed 20 pages.
 - (b) A compilation prepared by OHCHR of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official UN documents, which shall not exceed 10 pages.
 - (c) Additional, credible and reliable information provided by other relevant stakeholders to the UPR which should also be taken into consideration by the HRC in the review. OHCHR will prepare a summary of such information which shall not exceed 10 pages.

⁵ See para 15 of the Annex to resolution 5/1

B. Content and format of written submissions by relevant stakeholders to the OHCHR

7. HRC decision 6/102⁶ sets out General Guidelines for the preparation of information under the UPR. These Guidelines (available at http://ap.ohchr.org/documents/sdpage_e.aspx?b=10&se=69&t=3) apply to States and other stakeholders, as well as to OHCHR for the preparation of the documents under its responsibility.⁷
8. Drawing from the above-mentioned general guidelines, stakeholders may wish to include in their submissions:
 - (a) The methodology and the broad consultation process followed nationally for the preparation of information provided to the UPR by the country under review;
 - (b) The current normative and institutional framework of the country under review for the promotion and protection of human rights: constitution, legislation, policy measures such as national action plans, national jurisprudence, human rights infrastructure including national human rights institutions ...;
 - (c) The implementation and efficiency of the normative and institutional framework for the promotion and protection of human rights as described at subparagraph (b) above. This includes information on the implementation of the country's human rights obligations and commitments at the national and the international levels (for example information on the implementation of commitments made by the country under review at international conferences and other United Nations fora; of constitutional and legal reforms aimed at protecting human rights, of national action plans, of mechanisms and remedies aimed at improving human rights); on the activities of national human rights institutions; on human rights education and public awareness;
 - (d) Cooperation of the country under review with human rights mechanisms, and with national human rights institutions, NGOs, rights holders, human rights defenders, and other relevant national human rights stakeholders, both at the national, regional and international levels;
 - (e) Achievements made by the country under review, best practices which have emerged, and challenges and constraints faced by the country under review;
 - (f) Key national priorities as identified by stakeholders, initiatives and commitments that the State concerned should undertake, in the view of stakeholders, to overcome these challenges and constraints and improve human rights situations on the ground. This includes, for example, national strategies, areas where further progress is required, steps regarding implementation and follow-up to recommendations made by human rights mechanisms, commitments for future cooperation with OHCHR and human rights mechanisms and agencies, etc.;
 - (g) Expectations in terms of capacity-building and technical assistance provided and/or recommended by stakeholders through bilateral, regional and international cooperation. 9. Stakeholders are strongly encouraged to provide written submissions that:
 - Are specifically tailored for the UPR;
 - Contain credible and reliable information on the State under review;
 - Highlight the main issues of concern and identify possible recommendations and/or best practices;
 - Cover a maximum four-year time period;
 - Do not contain language manifestly abusive;
 - Are no longer than five pages in the case of individual submissions, to which additional documentation can be annexed for reference. Submissions by large coalitions of stakeholders can be up to ten pages.
10. Stakeholders are encouraged, while drafting their contribution, in accordance with Human Rights Council resolution 5/1 (paragraph 1), to take into consideration all human rights obligations and commitments, including those set out in the United Nations Charter, the Universal Declaration of Human Rights, Human Rights instruments to which the country under review is a party, voluntary pledges and commitments made by that country, as well as applicable international humanitarian law.

⁶ Of 27 September 2007.

⁷ See section I. "General guidelines for the preparation of information under the Universal Periodic Review" of HRC decision 6/102.

11. Stakeholders may also, if they so wish, draw attention to specific conclusions and recommendations made by international and regional human rights mechanisms, and refer to the extent of implementation. However, stakeholders should refrain from listing all treaties ratification, concluding observations and recommendations of the human rights treaty bodies and/or the special procedures of the HRC, as the latter are reflected in the UN compilation prepared by OHCHR.

12. The UPR mechanism does not provide for confidentiality and is conducted on the basis of public documents. Submissions, as originally received, will be made available on-line on OHCHR's website, including the name of the submitting party (provided they do not contain language manifestly abusive).

13. Stakeholders are encouraged to consult with one another at the national level for the preparation of the UPR submissions. Joint submissions by a large number of stakeholders are encouraged.

For detailed technical guidance on modalities for stakeholders' submissions please refer to the information box annexed to these guidelines.

C. How and when should relevant stakeholders submit information?

14. Stakeholders' submissions should be sent to uprsubmissions@ohchr.org.

15. Deadlines for stakeholders' submissions can be found here.

17. For future country reviews under the UPR, stakeholders should note that written submissions to OHCHR should be sent indicatively at least five months before the relevant session of the Working Group on UPR, to take into account UN Conference Services' requirements. The exact deadlines will be posted in due course on the website.

V. PARTICIPATION IN THE UNIVERSAL PERIODIC REVIEW

18. NGOs in consultative relationship with ECOSOC may attend sessions of the Working Group on the UPR.⁸ At these sessions there is no provision for such NGOs to take the floor or submit written information;

19. NGOs in consultative relationship with ECOSOC may participate in regular sessions of the HRC, at which UPR outcomes are considered and adopted, and make brief general comments before the adoption of outcome documents by the HRC.⁹ For information on how to be accredited to HRC sessions please visit <http://www2.ohchr.org/english/bodies/hrcouncil/>.

VI. FOLLOW-UP TO THE UNIVERSAL PERIODIC REVIEW

20. Relevant stakeholders may wish to contribute to the follow-up to the outcome of the UPR process, to the extent that this is appropriate:

(a) Follow-up action could be undertaken in cooperation with the State entities, to whom the recommendations are addressed; and

(b) Stakeholders may disseminate the outcome of the UPR at the national level.

21. Stakeholders are encouraged to further disseminate these guidelines and raise awareness on the UPR.

⁸ See para. 18(c) of the Annex to resolution 5/1.

⁹ See para. 31 of the Annex to resolution 5/1.

VII. CONTACT INFORMATION

22. For further information, please contact:

OHCHR Civil Society Unit
Tel: +41 22 917 96 56
Fax: +41 22 917 90 11
E-mail: civilsocietyunit@ohchr.org

Technical guidelines for the submission of stakeholders' information to OHCHR

Where to submit?

Written information for the UPR review should be sent to the following address: uprsubmissions@ohchr.org. Please avoid sending information to other OHCHR electronic addresses. Please note (a) the OHCHR secretariat will confirm electronically receipt of your message and submission; and (b) while stakeholders are discouraged to fax or mail a hardcopy of their submission to the OHCHR secretariat, they may do so in the case of repeated technical difficulties with electronic mail to: +41 22 917 90 11. Format of the written submission:

- Each electronic submission and relevant e-mail message should refer to **one country only**. In the **e-mail message** accompanying the submitted documents kindly include:
 - In the title of the e-mail message: the name of the (main) stakeholder/NGO submitting the contribution, the kind of contribution (individual and/or joint), the name of the reviewed country and indicate the month and year of relevant UPR session, e.g., "*Women's coalition – joint UPR submission – Brazil – April 2008*";
 - In the text of the e-mail message accompanying the submission, stakeholders should indicate the details of the relevant contact person;
 - A paragraph describing the main activities of the submitting organization/coalition, as well as date of establishment, especially for those organizations which interrelate for the first time with the UN, would be also welcomed;
- Should the submission be prepared jointly, the names of all submitting stakeholders should appear at the beginning of the submission text (not in the relevant e-mail message).
- Stakeholders' submissions should not be longer than five pages, to which a more detailed and factual report maybe attached; submissions by large coalitions of stakeholders can be up to ten pages;
- Written submissions should be saved as a Word document only, i.e. not as PDF file, in Times New Roman, font 12;
- Written contributions should be submitted in UN official languages only, preferably in English, French or Spanish;
- Written submissions should be final; in principle, it will not be possible to accommodate revisions;
- Paragraphs and pages of each submission should be numbered;
- Stakeholders are encouraged to include in their written submissions an introductory executive summary, capturing the main points contained therein; as a way of introduction, key words may also be indicated (e.g., domestic violence);
- Written submissions should not include second-hand information (except when it clearly supports original information). Facts and details to support the identified priority issues and recommendations may be annexed for reference to the submission;
- Annexes to the submissions should NOT include pictures, maps, organizations' annual reports or reports from other organizations;
- OHCHR's summary will not refer to names of individuals mentioned in the written submission, except if they refer to emblematic cases;
- The extensive use of footnotes is discouraged;

Please note also:

- Submissions in excess of the five/ten page maximum will not be considered;
- Submissions received in a language other than the six official UN languages will not be considered;
- Submissions received after specified deadlines will not be considered; and
- Submissions containing language manifestly abusive (i.e. incitement to violence, inherently racist language, etc.) will not be considered.

Annex 2 Accreditation Guidelines for NGOs

Accreditation

All NGOs in consultative status with ECOSOC interested in attending the session of the UPR Working Group must send a scanned letter of request for accreditation to the Secretariat well in advance of the relevant session. The letter must contain the following elements:

- Submitted on the official letterhead of the organization;
- State the title and duration of the session the organization wishes to attend, e.g. "[Name of NGO], in consultative status with ECOSOC, wishes to send the following members to attend the Xth session of the UPR Working Group (dates of session)...";
- List the name/s (FAMILY NAME, First name) of the person/s who will represent the organization at the UPR Working Group session. Names of persons must appear exactly as they appear in their passports;
- For those organizations in need of attestation of accreditation' for Swiss visa application purposes, NGOs should explicitly indicate their need in the letter. The UPR Secretariat will accordingly transmit the request to the United Nations Office in Geneva (UNOG) NGO Liaison Office which will issue the attestation and transmit it to the concerned NGO headquarters.

Please consult Swiss consular officials regarding visa application deadlines, apply accordingly and ensure documentation is in order;

- The letter must be signed by the President, or Chief Executive Officer of the organization, or the organization's Main Representative to the United Nations Office at Geneva if he/she is so authorized;

Please send letter of request [Subject line: NGO Accreditation letter for UPR WG session] to:

upraccreditation@ohchr.org

Please Note: On occasions of increased demand for participation in a given session, the Secretariat may limit access to the plenary room in terms of the number of accredited participants per NGO delegation.

Contact: **upraccreditation@ohchr.org**

Source: <http://www2.ohchr.org/english/bodies/hrcouncil/ngo.htm>

Annex 3 Universal Declaration of Human Rights (UDHR)

Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December, 1948.

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly,

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Annex 4 State Report Sample

GENERAL

A/HRC/WG.6/3/TUV/1

12 September 2008

Original: ENGLISH

HUMAN RIGHTS COUNCIL

Working Group on the Universal Periodic Review

Third session

Geneva, 1-15 December 2008

National Report Submitted in Accordance with Paragraph 15(a) of the Annex to Human Rights Council Resolution 5/1 *

TUVALU

* The present document was not edited before being sent to the United Nations translation services. GE.08-15612

I. METHODOLOGY AND CONSULTATION

1. Pursuant to resolution 5/1 adopted by the Human Rights Council on 18 June 2006 Tuvalu was randomly selected in 2007 to be one of the countries to prepare and present its national report for the Universal Periodic Review (UPR) by the Human Rights Council of the United Nations in December 2008.
2. In response to this decision, the Department of Foreign Affairs and Labour in consultation with the Office of the Prime Minister and under the guidance of the Government appointed UPR National Task Force, was charged with the responsibility of initiating and coordinating consultations among government stakeholders and the civil society for the Tuvalu national report for the Universal Periodic Review. This national report was written based on the general guidelines adopted by the Human Rights Council in its resolution 5/1 on 18 June 2006. The report considers basic human rights and fundamental freedoms and the vulnerable sectors of the Tuvalu society, and also reviews the human rights implications of the adverse impacts of climate change in particular sea level rise.
3. Consultations took place within severe capacity constraints. With the assistance from the United Nations Human Rights Office for the Pacific Region based in Fiji, and close consultations with the Office of the Attorney General, the Department of Foreign Affairs and Labour was able to initiate consultations and prepare the national report.
4. There are more than 45 non-governmental organizations in Tuvalu and not all are aware of the Universal Periodic Review. Consultations were carried out between government stakeholders and the civil society in order to brief them on what the UPR is all about and what human rights issues are for Tuvalu. Briefings and consultations were also done and undertaken within government ministries and departments.
5. This report is intended initially to set out a brief overview of the legal obligations of Tuvalu in the field of human rights at the national and international level. The content of this report was formulate to tune with our commitment to achieve the United Nations Millennium Development Goals and those under various United Nations and international and regional sustainable development agendas and the Tuvalu national strategy for sustainable development (NSSD), "Te Kakeega II", vision.
6. The protection of fundamental rights and freedoms is subject to certain qualifications and limitations. Most notably, the Bill of Rights under the Constitution contains a provision which allows limitations or restrictions on the exercise of rights and freedoms if the limitation is aimed at a practice which "is divisive, unsettling or offensive to the people, or directly threatens Tuvaluan values and culture."

II. BACKGROUND INFORMATION ON TUVALU

A. OVERVIEW

7. Tuvalu, formerly known as the Ellice Islands, is an island nation made up predominantly of Polynesian race, located in the Pacific Ocean midway between Hawaii and Australia. Its nearest neighbours are Kiribati to the north, Samoa to south east and Fiji immediately to the south. Comprising four reef islands and five atolls with a gross land area of just 26 square kilometres (10 sq mi), it is of the most densely populated independent country in the world. It is also the second-smallest member by population of the United Nations. However, Tuvalu has a vast Exclusive Economic Zone (EEZ) of almost 900,000 square kilometres.
8. The islands came under Britain's sphere of influence in the late 19th century. The Ellice Islands were administered by Britain as part of a protectorate from 1892 to 1916 and as part of the Gilbert and Ellice Islands Colony from 1916 to 1974. In 1974 the Ellice Islanders voted for separate British dependency status as Tuvalu, separating from the Gilbert Islands, and eventually becoming independent on 1 October 1978.

B. GOVERNMENT

9. Tuvalu is a constitutional monarchy with Queen Elizabeth II as Queen and Head of State of Tuvalu. She is represented in Tuvalu by the Governor General, who is appointed upon the advice of the Prime Minister.
10. The Parliament, or Te Fale o Palamene, is the supreme legislative body of the country. Based on the Westminster model, it has 15 members elected every four years from eight constituencies.
11. The Prime Minister is selected from the members of the Parliament and the Prime Minister is the head of the Executive arm of the Government. The Cabinet is appointed by the Governor General on the advice of the Prime Minister. There are no formal political parties and election campaigns are largely done on the basis of personal/family ties and reputation.

12. Tuvalu has no regular military forces, and spends no money on the military. Its police force includes a Maritime Surveillance Unit for search and rescue missions and surveillance operations.

C. THE CONSTITUTION

13. The Constitution is the supreme and basic law of the country that provide the general framework and principles by which Tuvalu is governed. The Constitution provides for the establishment of the three major branches of the government-the Executive, Judiciary and the Legislature.
14. The Prime Minister is the Head of the Executive Arm of the Government, selected from and by the members of the Parliament. There are nine members of the Executive, who also made up cabinet and are responsible for the overall governing and administering the welfare of the state.
15. The Legislature Arm or Fale ote Palamene is the only law making body in Tuvalu. It is made up of 15 members elected from the eight islands of Tuvalu. There are no formal political parties in the House of Parliament and members are elected every four years. Voters are Tuvaluan citizens at and above the age of 18.
16. The Constitution also provides for the Judicial Arm of the Government. It includes:
- The Sovereign in Council;
 - The Court of Appeal;
 - The High Court;
 - Magistrate Courts;
 - Island Courts, Lands Court and other tribunals as provided for by Acts of Parliament.
17. The High Court has unlimited jurisdiction including jurisdiction to interpret and determined question arising under the Constitution while the subordinate courts have limited jurisdiction provided for by each founding Act.

D. LEGAL SYSTEM

18. The Constitution is the Supreme law of the land. It is followed by Acts of the Parliament, English common law and equity, Pre-Independence British Imperial Act before 1961 and customary laws of Tuvalu are all parts of the laws of Tuvalu. Customary laws normally used in the determination of titles to land, civil and criminal proceeding in Magistrate's court, provided that these customs are not repugnant to natural justice, equity and conscience or not inconsistent with any Acts. Customary law also applied in civil and a criminal proceeding in all courts except that is inconsistent with the Constitution or any Acts.
19. The normative framework for the protection of human rights consists of the Constitution of Tuvalu, Acts of Parliament, court decisions or jurisprudence and customs and traditional practices.

E. OFFICIAL LANGUAGES

20. Tuvaluan and English.

F. POPULATION

21. According to the last official census in November 2002, the total population for Tuvalu was 9,359 on 9 inhabited islands. The population on the capital island, Funafuti, was 3,962 while the population on the other islands was 5,397. Tuvalu has a young population with a median age of 24 years. The population growth rate is 0.6 per cent per annum. [Net migration is -1.1 per cent per annum].

G. HUMAN DEVELOPMENT PROGRESS INDICES

22. With a Human Development Index (HDI) of 0.583, the 1999 Pacific Human Development Report (PHDR) ranked Tuvalu sixth (down from third in 1994) amongst the PDMCs. This index and ranking was calculated from a composite measure of life expectancy at birth of 67 years, an adult literacy rate of 95 per cent, a combined gross enrolment ratio of 74 per cent and real GDP per capita of (PPP) of US\$1,157 (UNDP 1999). Although GDP is the accepted indicator, in Tuvalu's case it might be more appropriate to consider GNP as the latter takes into account the sizeable returns from fishing licenses, seafarers remittances and investment income. Using the GNP measure instead of GDP would likely improve Tuvalu's HDI ranking.

H. HUMAN POVERTY INDEX

23. With a Human Poverty Index (HPI) of 7.3, Tuvalu ranked third in terms of poverty among the 12 PDMCs. This index and ranking reflects a composite of: people not expected to survive to age 40 (10 per cent); illiterate adults (5 per cent); underweight children under 5 years (nil); and people without access to safe water (15 per cent) or health services (nil). The higher ranking of Tuvalu in the HPI compared to the HDI largely reflects the generally sound indicators of access to all essential human needs.

I. GROSS DOMESTIC PRODUCT

24. In 2002 Tuvalu recorded AU\$27.5 million. Its GDP per capita is AU\$2,872 the main portion of which includes overseas development assistance (ODA). Most of the food products are imported from Australia, New Zealand and Fiji. Tuvalu's economy depends mostly on fishing licenses, stamps and remittances from seafarers working on merchants and chemical ships overseas.

J. LEGISLATIVE AND POLICY MEASURES

25. The protection of fundamental rights and freedoms under the Constitution is subject to certain qualifications and limitations. Most notably, a provision which allows limitations or restrictions on the exercise of rights and freedoms if the limitation is aimed at a practice which "is divisive, unsettling or offensive to the people, or directly threatens Tuvaluan values and culture." However, any action taken by the Government, or any law or act done under a law which restricts rights and freedoms otherwise protected under the Constitution must "reasonable and justifiable within a democratic society."
26. The High Court is given jurisdiction to determine questions arising under the Bill of Rights, and is empowered to grant a wide range of remedies in order to enforce the protection of fundamental rights and freedoms. Constitutional redress (monetary compensation) is one remedy that may be sought by an individual aggrieved by an alleged violation of the Bill of Rights; where justified, the Court's order may also include administrative law remedies such as declarations or injunction orders.
27. Tuvalu's customary law is also afforded recognition within the Tuvaluan legal framework. Certain aspects of customary law operate to protect human rights principles; for example, customary land law operates to ensure no family member will suffer aspects of customary law which would today be seen as a violation of human rights principles are no longer utilized or enforced: banishment from one's home island by sending the offender adrift in a canoe, for instance, has not been applied in Tuvalu for many decades.
28. There is a specific National Strategic Plan for responding to STI/HIV/AIDS (2001-2005) policy currently in practice and the Government is currently working on the second National Strategic Plan for 2006-2010.

K. INTERNATIONAL COMMITMENTS

29. Tuvalu adheres to the United Nations Charter and the Universal Declaration on Human Rights. It has therefore ratified two international human rights treaties: The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC).
30. International treaties ratified by Tuvalu are accordingly incorporated into domestic laws. However, there are serious issues of capacity in Tuvalu to fulfil the requirement of international treaties, and to ensure consistency of domestic laws. Where the construction of a written law is open to more than one interpretation, an interpretation which is consistent with Tuvalu's international obligations will be preferred.
31. There is no human rights institution in Tuvalu and there is a hope that the international community will consider providing technical assistance in this area.
32. Tuvalu became a member of the Commonwealth in 2000, immediately following its joining the United Nations as the 39th member. Tuvalu is also a founding member of the Pacific Islands Forum and a member to several regional organizations such as the Secretariat of the Pacific Community (SPC), Secretariat of the Pacific Regional Environmental Programme (SPREP), and Secretariat of the Pacific Geoscience Commission (SOPAC).

III. PROMOTION AND PROTECTION OF HUMAN RIGHTS

A. THE CONSTITUTION

33. The Constitution as the Supreme Law of the State provides the Bill of Rights, which guarantees protection of certain fundamental rights and freedoms and articles on the accountability and establishment of public officers, citizenship, suffrage, national economy and finance. Among the rights that are protected are the right to life and liberty; security for person, freedom of belief, expression and association; and freedom from discrimination or specified grounds. Of notable absence in the freedom from discrimination provisions is any protect from discrimination on the basis of gender.
34. The Constitution also provides for the use of international conventions, declarations, recommendations and judicial decisions concerning human rights as one of the factors the Court may regard in determining whether the law or act is reasonably justifiable in a democratic society that has proper respect for human rights and dignity.

B. LEGISLATION

35. There are also examples of domestic legislation which operate human rights in a specific field. The Education Ordinance, for instance, provide pupils with the right not to take part in religious education or ceremonies (section 19) at a public school. The Criminal Procedure Code sets out various protections against arbitrary arrest and intrusion into one's private home. The Native Land Code (essentially a codification of customary land laws) provides individuals with the right to not arbitrarily deprived of their family land inheritance.

C. THE JUDICIARY AND FAIR TRIAL RIGHTS

36. Tuvalu is committed to the rule of law and administration of justice among those who take refuge under the law. The Constitution guarantees the protection of the people by the law and equality of everyone before the law. Among some of these protection include, a person charged with an offence should be given fair hearing within reasonable time by an independent and impartial court of law. Such person charged with an offence is presume innocent until proven guilty, shall be informed in the language he understands well, should be given adequate time to defend himself.

D. VOLUNTARY COMMITMENTS

1. Free health service

37. People have free access to health and medical services that are provided by government. For serious cases where treatment is not available, patients are referred to Fiji and New Zealand for treatment, funded by government.

2. Compulsory and free education

38. The Educational (Compulsory Education) Order 1984 stipulates in its section 3 (1) that a child who is of school age, being the period (a) commencing at the beginning of the school year during which he or she reaches the age of (seven) years; and (b) ending at the end of the school year during which he or she reaches the age of fifteen years.
39. Section 3 (1) (a) of the Compulsory Order 1984 had been amended and now reads "commencing at the beginning of the school year during which he or she reaches the age of six years." Education is therefore compulsory for all children aged 6 to 15 years old.

E. PUBLIC AWARENESS OF HUMAN RIGHTS

40. There is no dedicated Human Rights body in Tuvalu. Tuvalu National Council of Women (TNCW)'s Legal Rights Training Officer (supported by RRRRT) and the Office of the People's Lawyer receive the bulk of enquiries from the public relating to enforcement and protection of human rights. Training on human rights is conducted on an ad hoc basis by NGOs targeting specific audiences. One such workshop has been conducted by the People's Lawyer's Office in the last 12 months.
41. Youth groups are running their own programmes and workshops on human rights as most of the young generation do not understand their rights and overall, the concept of human rights.

IV. IDENTIFICATION OF ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

A. CHALLENGES

1. Effect of climate change

42. Given the constitutional rights and protection of Tuvaluan citizens' lives, and that climate change is an effect caused by human activities, the demise of human life of Tuvaluans due to adverse impacts of climate change and sea level rise is considered as illegal acts against such persons. It cannot be considered as falling within the ambit of death due to "acts of god" like victims of tsunami, strong winds, earthquakes and volcanic eruptions.
43. Medium and long-term developments could suddenly change due to climate events, which in turn could rapidly trigger severe shortages of food, water and shelter, fuel crisis and high vulnerability to diseases – hallmarks of poverty.

2. Children

44. Tuvaluans live in very close communities and in extended families. There have been no cases reported of children being neglected but there are rumours that some children are staying with relatives as a result of being neglected by their mothers and guardians. Government believes strongly in the need to properly harmonise customary ways of upbringing children in conformity with the CRC and other human rights covenants.
45. Child sex offences are not adequately provided for in the Penal Code, particularly in the case of abuse of male children. Rape of a male child, for example, carries a significantly lesser maximum penalty than rape of a female child. Fortunately, such offences are a relatively rare occurrence in Tuvalu. However, law reform is clearly required in order to modernize Tuvalu's criminal laws in this area.

3. Women

46. The Bill of Rights protects individuals from discrimination on the grounds of race, place of origin, political opinion, colour, religious beliefs or lack of religious beliefs. Discrimination on the basis of gender is notably absent from the prohibited grounds of discrimination. Other than the Bill of Rights within the Constitution, Tuvalu has not passed any legislation specifically relating to anti-discrimination or equal opportunity law. At present, women's human rights are not adequately protected by Tuvaluan domestic law.
47. Tuvalu's accession to CEDAW took place in October 1999. Tuvalu's first CEDAW report was submitted in June 2008. As may be detailed in the CEDAW report, there are a number of areas in Tuvalu's domestic laws that are not in compliance with CEDAW. Land laws, in particular, are often cited as an area requiring significant reform. Family law, including marriage, divorce, and child custody laws, also retains elements of discrimination against women. The Government of Tuvalu is examining areas that require amendment in order for Tuvalu to be in compliance with its obligations under CEDAW.

4. Religion

48. Reportedly, local governing authorities on the outer islands (comprised of statutory bodies and customary authorities) are generally less supportive of individual freedom of belief and expression. The People's Lawyer's Office has received numerous complaints from religious organizations concerned by limitations on their activities in the outer islands.
49. Discrimination on grounds of belief is being tolerated in many communities, particularly on the outer islands. The Government is taking urgent steps toward condemnation of all forms of discrimination, and providing support towards raising awareness among the public on human rights issues.
50. From the information available, there appears to be a need to explore appropriate arrangements to accommodate traditional and customary practices within the culture of Tuvalu as recognized in the Constitution while ensuring support of individual freedom of belief and expression.

5. Freedom of expression

51. Several Churches have reported that the Media Department (formerly the Tuvalu Media Corporation) has refused to broadcast faith-based programming from minority religions. As there is only one radio outlet on Tuvalu and it is now nationalized as a department of Government, it has been considered that it is the Government's responsibility to eradicate discrimination and unjustified limitations on minority churches' freedom of expression in the media.

6. Police – arbitrary arrest

52. The Police, as a law enforcement agency, encountered real challenges in the performance of its statutory functions. In the performance of its policing duties, the police immersed in daily contacts and deals with people who are about or have violated the laws, and people who have fallen as victims of the violations of the laws. And in response to violations of law, so often the police, found itself in conditions of uncertainty, confusion on what best course of action it should take, on the spot, in addressing the situations.
53. The main challenge face here is the lack of capacity of Police officers in handling cases and understanding the law. This results in the delay of Police investigation because of the evidence being misplaced or lost; the people or victims do not understand their rights during time of arrests as they were not read to them by the Police; Unnecessary excessive force use on the victims during the arrests at times is also an issue.

7. Development challenges

- (a) Limited natural resources base;
- (b) Small domestic market with little potential for economies of scale;
- (c) Access to international markets is expensive;
- (d) Limited business opportunities in the domestic economy;
- (e) Land and capital market development constrained by small size, social values and traditions;
- (f) Lack of financial and technical resources.

B. CONSTRAINTS**1. Access to justice**

54. The main constraint facing access to justice in Tuvalu is the lack of human resources and institutional capacity. It is imperative that this challenge is addressed. For example, the availability of qualified lawyers at the Office of the People's Lawyer and other government and public offices is a matter which requires urgent attention. From January 2007 to September 2007, there were no lawyers at the Office of the People's Lawyer. But for a small number of cases where the Attorney General's Office was able to assist, the population of Tuvalu was without access to legal advice and representation throughout this period. Over 100 criminal matters were adjourned during this time due to lack of defence counsel. Upon the arrival of an expatriate People's Lawyer in September 2007, a significant backlog of cases had accrued in the upper court jurisdictions.

2. Right to receive information

55. Full implementation of freedom of expression and receiving and communicating information as provided under Article 24 (2) (b) and (c) is constrained by the lack of resources and capacity. This sometimes puts one's position in a very difficult situation. People are not aware of their rights to receive and communicate information and there is a need to educate people on their rights to such issues.

C. ACHIEVEMENTS**1. Climate change**

56. Over the past twenty years Tuvalu governments have raised the issue of climate change as a potentially terminal event on the lives and indeed the very existence of Tuvalu as a sovereign state. Tuvalu Government and its overseas diplomatic missions particularly over the past six years have vigorously advocated the plight faced by Tuvaluans due to the country's unique vulnerability to impacts of climate change, and the growing seriousness of the threat. The Tuvalu Permanent Mission to the United Nations in New York was set up in May 2001 purposefully to accelerate Tuvalu's international campaign against climate change. Furthermore, the international media has further propagated Tuvalu's vulnerability to climate change as well as the vulnerabilities of the other atoll countries such as Kiribati, Republic of the Marshall Islands, Maldives and continues to do so and Tuvalu is very grateful for their contribution.
57. The formulation and implementation of "Te Kakeega II", Tuvalu National Sustainable Development Strategy, the development of the National Action Plan of Adaptation (NAPA), and the acceleration of the advocacy work at the global level. The Government is also pursuing awareness promotion programmes on the effect of climate change in schools and all community levels. A Disaster Preparation and Management Plan which has been formulated and is also a strategy to help Tuvaluans to respond to the damages caused by events that are exacerbated by climate change.

2. Improvement in health services

58. The Government of Tuvalu with financial assistance from the Government of Japan will upgrade medical facilities in the outer islands. Health Master Plan and Health Corporate Plan been developed. Local medical doctors on specialized areas are being trained overseas.

3. Youth development

59. The development of a youth corporate plan and youth internship programme are under review and in progress. Conducting awareness workshops on the threat posed by HIV/AIDS are being carried out with the assistance of Tuvalu Family Health Association (TuFHA).

4. Capacity building for women

60. Tuvalu's accession to CEDAW took place in October 1999. Tuvalu's first CEDAW report was submitted in June 2008. There are a number of areas in Tuvalu's domestic law that need to be brought into compliance with CEDAW. Land laws, in particular, are often cited as an area requiring significant reform.
61. Women are being trained in micro enterprise and small medium term business development and marketing. These training are being funded by the Secretariat of the Pacific Community and the Commonwealth Secretariat. The trainings are being done at the Community Education Training Centre in Suva, Fiji.

5. Improvement on education curriculum

62. The existing curriculum has been reviewed and developed framework for Early Childhood Education, Primary, Junior Secondary School, Secondary and Post-Secondary.
63. A national strategy on school based system of student assessment has been developed.

V. KEY NATIONAL PRIORITIES, COMMITMENT AND INITIATIVES**A. NATIONAL PRIORITIES**

64. During the National Summit on Sustainable Development in 2004, the delegates produced a very clear set of strategic directions the nation should take, based on the issues that are considered to be and are national priorities. The priority now is to develop sectoral plans and to secure adequate financial and technical support to further implement Te Kakeega II Strategy and address the identified human rights challenges and constraints in Tuvalu.

1. Good governance

65. Inspired leadership, as well as honesty, transparency and consistency in the application of the rule of law is a pre-condition to achieve the vision of Te Kakeega II. Government recognizes the importance of promoting honesty, transparency and consistency in its further implementation.

2. Economic growth and stability

66. Sound economic management, fiscal discipline, the right policy environment (fiscal, monetary, regulatory), strong and well managed institutions that offer a high standard of governance, a cost-effective, efficient and customer-oriented public sector, are but a few of the desired results.

3. Social development

67. Health and social welfare, including issues of nutrition, youth, gender, age and other special needs; good health and ensuring that the social and welfare needs of the various sections of society are catered for will help to ensure a stable social environment; HIV/AIDS, NCDs and hardship and poverty are emerging issues and need to be considered as potential threats to the achievement of the Vision.

4. Falekupule and outer islands

68. The outer islands have always been regarded as the heart of the nation, however in the last decade the heart has become weaker as outer island populations have declined and production in the traditional subsistence economy has fallen. To counter this, the Falekaupule Trust Fund was established and the challenge now is to identify strategies that will reverse the outward migration and falling output from the outer islands and to help ensure that the outer island economies are sustainable in the long term.

5. Employment and private sector development

69. Private Sector development and employment creation, including in tourism, agriculture and fisheries; creating an environment in which economic opportunity is created forms the core of the strategic framework.

6. Education and human resources

70. Education, training and human resource development are essential to the achievement of each individual's own potential and aspirations; they are also central to the nation's ability to achieve sustainable development. Education and training will target the skill and manpower demands in the different sectors in the economy.

7. Natural resources

71. Agriculture, Fisheries, Tourism and Environment. The traditional structure of Tuvalu society and its subsistence economy have been built on the sustainable use of the nation's limited, but nevertheless valuable natural resources, and the conservation and careful exploitation of its fragile atoll ecosystems. These are now under threat from changing attitudes in society and from a continuously growing cash economy. With traditional subsistence production in decline, the challenges are to reconcile these conflicting factors to create sustainable growth and greater stability.

8. Infrastructure and support services

72. Reliable, competitively priced economic infrastructure and utilities are an essential requirement for sustainable development. Without these supporting services it will be impossible to attract investment, create employment, new wealth and opportunities for the people. The strategies will put in place whatever support services are needed, which provide the nation with a satisfactory quality of service at a reasonable price.

B. COMMITMENTS

73. Although Tuvalu is not a party to other human rights covenants namely the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Government is still committed to ensure effective monitoring of human rights situation on the ground and to meet the targets outlined in the Te Kakeega II, The National Strategy on Sustainable Development.

C. GOVERNMENT INITIATIVES

74. The Government of Tuvalu believes it is important to set up as early as possible a national commission for human rights, and a human rights office in Tuvalu.

75. Secondly, it also believes there is an urgent need to explore practical options of protecting the human rights of Tuvaluans from the impacts of climate change and other human induced activities.

VI. REQUESTS FOR THE INTERNATIONAL COMMUNITY TO CONSIDER

76. Tuvalu is both a small island developing state (SIDS) and a least developed country (LDC), with lack of capacity, infrastructure and financial resources causing the special vulnerabilities of Tuvalu. It faces special challenges to achieve as an LDC and SIDS to achieve MDG and Te Kakeega II targets, and especially for the improvement of human rights issues on the ground.

77. The Government of Tuvalu calls on the international community to consider providing:

- Technical assistance and financial support in building the capacity of local practitioners, with a view to localising the position of the People's Lawyer in the short to medium term;
- Technical and financial assistance to improve Public awareness of human rights through community education programs and awareness-raising activities;
- Technical assistance and financial support in upgrading the capacity of the Police;
- Technical and financial assistance in areas that the international community see there is a need to improve human rights issues in Tuvalu.

Annex 5 Stakeholder Submission sample

Save the Children Fiji

Source: http://lib.ohchr.org/HRBodies/UPR/Documents/Session7/FJ/STC_FJI_UPR_FJI_S07_2012_SavetheChildrenFJI.pdf

NGO Submission to the United Nations Universal Periodic Review

Submission of Save the Children Fiji, Republic of the Fiji Islands Seventh Session of the Universal Periodic Review Working Group, 2010

1. Save the Children Fiji (SC Fiji) is an autonomous and independently funded nongovernmental organisation, affiliated to the International Save the Children Alliance (ISCA). SC Fiji uses a rights-based approach in its work and is guided by the United Nations Convention on the Rights of the Child which Fiji ratified in 1993. SC Fiji's goal is to strengthen the delivery of basic services for children; to promote the awareness of children's rights and values at all levels and to mobilize resources to address the diverse needs of children. Since its inception in 1972, SC Fiji has been dedicated to making meaningful contribution to the educational development of children, community capacity building and peaceful and fundamental transformation of disadvantaged communities. SC Fiji's primary role is to create a better world for children through program support, action-oriented research, awareness raising and advocacy.
2. This submission focuses on the issue of corporal punishment in Fiji and the necessary legal reform to achieve full prohibition in all settings including the home. It also includes the status of current legislation in force, the legality of corporal punishment in all settings such as home, schools, penal system, alternative care settings, workplace and prevalence research done on the issue in Fiji. Recommendations relating to these areas of concern are listed under the relevant sections.

Legality of Corporal Punishment

Home

3. Corporal Punishment is lawful in the home. Section 57 subsections 7 of the Juveniles Act (1974) punishes cruelty to children but also states: "Nothing in this section shall be construed as affecting the right of any parent, teacher or other person having the lawful control or charge of a juvenile to administer reasonable punishment to him." Article 235 of the Penal Code (1945) criminalises "excessive" force.
4. Children have limited protection under provisions in the Juveniles Act, the Penal Code, the Family Law Amendment Act (2005). In 2006, the Prime Minister and other high level offices endorsed a statement calling for an end to all corporal punishment¹, but as at August 2009 there has been no moves towards legal reform.

Recommendation:

1. SC Fiji urges the Government of Fiji to repeal the relevant sections in the Juveniles Act (Cap 56) with particular reference to section 57 subsections 7 and any other in relation to corporal punishment.
2. SC Fiji urges the Government of Fiji to make concrete steps towards the implementation of the principles of the UNCRC into Fijian domestic law.
3. SC Fiji urges the Government of Fiji that when a new Constitution is promulgated, it should still address the issue of freedom from cruel or degrading treatment.

¹ See <http://www.info@endcorporalpunishment.org>

Schools

5. Corporal Punishment is prohibited in schools under a High Court ruling by Justice Jayant Prakash which stated that corporal punishment was unconstitutional (Lautoka High Court, March 2002, Appeal Case Naushad Ali v State). The Education Act (Cap 262) does not make any specific provisions for corporal punishment in schools, but prior to the High Court ruling the Permanent Secretary issued guidelines for its administration by heads/ principals using a leather strap. The ruling elicited strong opposition from the Fiji Teachers Association, the Great Council of Chiefs and the Methodist Church, though the FTA has also stated that it does not condone corporal punishment and has encouraged its members to use other methods of discipline. ² As at August 2009, the prohibition had not been confirmed in legislation and corporal punishment continues to be used in schools.

Recommendation:

4. SC Fiji calls on the Government of Fiji, as a matter of priority to expressly provide for the prohibition of corporal punishment in the Education Act (Cap 262) and in all levels of education.

Penal System

6. Corporal Punishment is unlawful as a **sentence for crime** under the 2002 High Court ruling (see above) but as at August 2009 the Penal Code is still to be amended to reflect this. Corporal Punishment of persons under the age of 17 years is prohibited in the Juveniles Act (Section 32). The Fiji Law Reform Commission has reviewed the Penal Code and, in its report presented to the Government in February 2007, recommended that no corporal punishment provision be restated in the new Crimes Act.

Corporal punishment is unlawful as a **disciplinary measure** in penal institutions under the 2002 High Court ruling (see above). In 2006 legislation providing for corporal punishment (section 84 of the Prisons Act and sections 44 and 134-136 of the Prisons and Corrections Act (2006), which states in section 38: "No prisoner may be subjected, by way of punishment, to: (a) corporal punishment in any form....." Section 3 (guiding principles) states: "When interpreting or applying any provision of this Act, and when exercising any prescribed power or duty or function, all persons that: (a) ensure that full regard is had to the recognized international standards and obligations relating to the treatment of prisoners (and in particular those stated in the International Convention recognized in section 43 (2) of the Constitution and in the Standard Minimum Rules for the Treatment of Prisoners adopted at Geneva in 1955), and that these standards are applied to the fullest extent possible; (b) apply to the fullest extent possible the rights and obligations of CEDAW and CRC in the administration of Fiji's prisons and the treatment of prisoners.....". Section 8 of the Fundamental Rights and Freedoms Decree states that arrested or detained persons have the right "to be treated with humanity and with respect for his or her inherent dignity". There is no provision for corporal punishment in section 29-34 of the Juveniles Act, dealing with juvenile's offender.

7. The Penal Code (Cap 17) in sections 227, 230, 235, 244 and 245 make references to corporal punishments under these sections.

(Grievous Harm)

s.227: Any person who unlawfully and maliciously does grievous harm to another is guilty of a felony, and is liable to imprisonment for seven years, **with or without corporal punishment.**

(Unlawful Wounding)

s.230: Any person who unlawfully wounds another is guilty of an offense and is liable to imprisonment for two years, **with or without corporal punishment.**

(Excess Force)

s.235: Any person authorized by law or by the consent of the person injured by him to use force is criminally responsible for any excess, according to the nature and quality of the act which constitutes the excess.

² See <http://www.info@endcorporalpunishment.org>

(Common Assault)

s.244: Any person who unlawfully assaults another is guilty of a misdemeanour, and if the assault is not committed in circumstances, for which a greater punishment is provided in this Code, is liable to imprisonment for one year.

(Assault causing actual bodily harm)

s.245: Any person who commits an assault occasioning actual bodily harm is guilty of a misdemeanour, and is liable to imprisonment for five years, **with or without corporal punishment.**

Sections 244 and 245 of the Penal Code are reconcilable offences under section 163 of the Criminal Procedure Code, which means that if the complainant reconciles with the accused, then the case is dismissed under that section.

Recommendation:

5. SC Fiji urges the Government of Fiji to repeal all references to corporal punishment in the Penal Code (Cap 17).
6. SC Fiji urges the Government of Fiji to prohibit the application of Section 163 of the CPC where the complainants are children under the age of 18.

Alternative care

8. Corporal Punishment is lawful in other institutions and forms of child care under section 57 subsection 7 of the Juveniles Act (see above). The provisions against violence and abuse in the Penal Code and the Family Law Act apply. The welfare of children in mental health facilities is covered by the Mental Treatment Act (1990).

Recommendation:

7. SC Fiji urges the Government of Fiji SC Fiji urges the Government of Fiji to repeal the relevant sections in the Juveniles Act (Cap 56) with particular reference to section 57 subsections 7 and any other in relation to corporal punishment.
8. SC Fiji urges the Government of Fiji to make concrete steps towards the implementation of the principles of the UNCRC into Fijian domestic law.

Workplace

9. There is no explicit prohibition of corporal punishment of children in situations of employment. Section 33(3) of the Constitution (1997) states: "[E]very person has the right to fair labour practices, including humane treatment and proper working conditions".

Recommendation:

9. SC Fiji calls on the Government of Fiji to incorporate the principles of the UNCRC into Fijian domestic law.

Prevalence research

10. Large scale comparative research into the views and experiences of 3,322 children and 1,000 adults in 8 countries in Southeast Asia and the Pacific (Cambodia, Fiji, Hong Kong, Indonesia, Mongolia, Philippines, Republic of Korea and Vietnam) was carried out by Save the Children in 2005. The research in Fiji involved 536 children (244 boys, 292 girls) aged 10-17 years from urban, semi-urban and rural areas, and 101 adults (49 men and 52 women, teachers in the schools and members of four community settlements in the Central Division). The research team led 51 sessions with the children, boys and girls separately, and two age groups – 10-13 years and 14-17 years. Methods used included research diaries, drawings, body maps, attitude survey, sentence completion, and discussions. Most punishment experienced by children were direct assaults, more frequently for younger children, including being beaten, hit, slapped or lashed, smacked, whacked, given a hiding, spanked, punched, "donged" (on the head) and pinched. Nine out of ten boys aged 10-13 years and almost eight out of ten aged 14-17 years reported the use of physical punishment; 71% of girls in both age groups reported this. More punishment was administered by immediate family members (parents 48%) than by teachers (45%); for all girls and younger boys, most punishment

were experienced in the home; for older boys the majority of punishment happened at school. Reasons for the punishment included disobedience, unsatisfactory academic performance and misbehaviour. In response to the statement "After I punish a child I feel unhappy", 38% of adults disagree, 57% agreed, 5% had no opinion.³

11. Interviews with parents and teachers conducted for Pacific Children's Program by a team from the University of the South Pacific found that corporal punishment of children is administered by parents, guardians and elders and takes many forms, including beating or using a belt or rod; hitting and punching the head with the hand or an object; inserting fingers down a child's mouth until the child gags; tying a child up in a sack and hanging from a tree; and whipping with a stick or rope.⁴

12. A study by the Fiji Women's Crisis Centre found that 80% of respondents had witnessed someone being beaten in the home, indicating a general acceptance of violence as a form of punishment. 57% of those described by respondents as victims of violence in the home were daughters and sons; 19.5% of those most frequently beaten being children; 81.2% of male respondents and 78.8% of female respondents reported being hit by their parents.⁵

To date there has been no public consultations between the Government of Fiji and civil society representatives regarding the issue of corporal punishment. Therefore, this submission was written independently of any consultation with the Government of Fiji. To the best of our knowledge there has been no internal consultation within Fiji in general.

Recommendation:

10. SC Fiji urges the Government of Fiji to make concrete steps towards holding consultations with key stakeholders on the issue of eliminating corporal punishment from all settings of society.

For further information on the submission of Save the Children Fiji, please

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³ Save the Children (2006), *The Physical and Emotional Punishment of Children in Fiji: A research report*, Suva, Save the Children Fiji. See also Beazley, H, S. Bessell, et al., 2006, *What Children Say: Results of comparative research on the physical and emotional punishment of children in Southeast Asia and Pacific*, 2005, Stockholm, Save the Children Sweden.

⁴ Vakaoti, P. & Finekaso, G. (2002), *Qualitative Study on Child Protection Practices: Fiji Report*, University of South Pacific, Report prepared International Development Support Services, Pacific Children's Program

⁵ FWCC (2001), *The incidence, prevalence and nature of domestic violence and sexual assault in Fiji: a research project of the Fiji Women's Crisis Centre*, Suva, Fiji Women's Crisis Centre. Cited in Save the Children (2006), *The Physical and Emotional Punishment of Children in Fiji: A research report*, Suva, Save the Children Fiji

Annex 6

The Outcome Report sample

The Tuvalu Outcome Report

Source: Recommendations extracted from the Report of the Working Group on the Universal Periodic Review: Tuvalu. (2009). http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/TV/A_HRC_10_84_Tuvalu_E.pdf

67. The recommendations formulated during the interactive dialogue have been examined by Tuvalu and the recommendations listed below enjoy the support of Tuvalu:

1. Ratify human rights treaties to which Tuvalu is not yet a party (Brazil); ratify, in particular, the International Covenant on Economic Social and Cultural Rights and the International Covenant on Civil and Political Rights (Switzerland, Italy); ratify core international human rights instruments, in particular the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (Canada); give positive consideration, as a matter of priority, to ratification of at least the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (Mexico); consider ratifying other key treaties, particularly the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (Slovenia); sign the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (Australia); sign and ratify the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as soon as possible (France);
2. Consider the possibility of acceding promptly at least to the main international instruments, such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination (Algeria); ratify the Convention against Torture (Switzerland);
3. Make good use of technical assistance from OHCHR to ratify expeditiously several major human rights treaties, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and the International Convention on the Elimination of All Forms of Racial Discrimination (Japan);
4. Meet its reporting obligations under the Convention on the Rights of the Child (United Kingdom);
5. Extend a standing invitation to human rights special procedures (Mexico); issue a standing invitation to all special procedures (Czech Republic); consider extending a standing invitation to all special procedures of the Council (Latvia);
6. Effectively strengthen its human rights institutional framework and further promote concrete programmes to raise awareness of human rights (Czech Republic);
7. Establish a national human rights institution in accordance with the Paris Principles (France); call on the international community to offer very much needed technical assistance to Tuvalu as stipulated and outlined in paragraph 77 of the national report and to address the call by Tuvalu for technical assistance in the establishment of a human rights institution (Zambia); A/HRC/10/84 Page 17
8. Build a national commission for human rights and a human rights office in the country, and provide human rights education programmes and awareness-raising activities, calling upon the international community to consider technical assistance and financial support (Brazil);
9. Persevere along its path and ask the international community to provide all the technical and financial support needed by Tuvalu during this process, particularly for the setting up of a national human rights institution in conformity with the Paris Principles; continue its efforts to harmonize national legislation with international human rights instruments; continue awareness raising and dissemination of human rights principles among the population at large; and conduct human rights training for officers responsible for law enforcement (Morocco);

10. Prioritize necessary reforms to modernize legislation and eliminate all forms of discrimination (United Kingdom);
11. Keep working in cooperation with OHCHR on the theme of the upcoming Review Conference on racism, racial discrimination, xenophobia and related intolerance as it enters the final phase of its preparatory process (Brazil);
12. Develop a comprehensive strategy to reduce domestic violence in Tuvalu, including by raising public awareness of the issue and identifying ways to combat such violence (New Zealand); implement effective means to ensure greater public awareness of the issues of domestic violence and gender discrimination and encourage greater involvement of Government agencies and civil society in efforts to address these issues (Australia);
13. Convene the Court of Appeal in the interest of addressing the pending appeal to the High Court ruling of 2005 on the case of Teonea v. Kaupule (Canada);
14. Continue actions and efforts to promote and protect human rights effectively on the ground and towards achieving the objectives set out in its national strategy for sustainable development (Cuba);
15. Step up efforts on raising the awareness of the population of the impact of climate change and involve the population more in the decision-making process in mitigating and adapting to the consequences of such changes (Switzerland); continue to play an active role in promoting international cooperation to combat climate change (Philippines); continue to engage with the international community, particularly the major emitting countries of the developed world, many of whom are States members of the Council, working with them in order to protect the human rights of Tuvaluans by securing significant global reductions in greenhouse gas emissions (Maldives); participate in discussions in the Council, scheduled for March 2009, on the relationship between human rights and climate change, in order to send a strong message to the parties to the United Nations Framework Convention on Climate Change on the importance of reaching an effective and workable global agreement on climate change mitigation and adaptation (Maldives); A/HRC/10/84 Page 18
16. Accord appropriate attention to the education sector in the medium and long term as the only way to correct the lack of human resources and institutional capacities in the country (Algeria);
17. Work with civil society on follow-up to the review (United Kingdom).

68. The following recommendations will be examined by Tuvalu, which will provide responses in due time. The response of Tuvalu to these recommendations will be included in the outcome report to be adopted by the Council at its tenth session:

1. Work towards reaching the human rights goals set by the Council in its resolution 9/12 and to strengthening its public policy guaranteeing the rights of the child, with special attention to children without parental care (Brazil);
2. Incorporate fully in its legislation the provisions of the Convention on the Rights of the Child to enhance the protection of children's rights (Italy);
3. Continue cooperation with OHCHR with a view to making necessary improvements in the fields of legislative reform on the punishment of sexual abuse of children, land and family laws, and the establishment of a national human rights commission and a human rights office (Turkey);
4. Consider appointing an Ombudsman with responsibility for investigating alleged violations of human rights as a short-term measure (New Zealand);
5. Amend the Constitution to prohibit discrimination against persons with disabilities (New Zealand);
6. Eliminate any legislation that has discriminatory effects against women, implement the relevant recommendations of the Committee on the Elimination of Discrimination against Women, and introduce a gender-specific dimension to the anti-discrimination provision of the Constitution (Switzerland); continue to strengthen measures to promote the equal rights of women and to counter discrimination (Philippines); adopt a law that prohibits discrimination on the basis of gender (Netherlands); amend the Constitution to include freedom from discrimination on the grounds of sex (New Zealand); incorporate in its legislation, at all levels, including at the level of the Constitution, provisions banning discrimination on the grounds

- of sex and gender (Mexico); stay strongly committed to the topic and further discussion leading to an amendment of the Constitution prohibiting discrimination based on sex and gender (Germany); establish equality between the sexes in the Constitution and take all necessary measures to counter gender-based discrimination (France);
 7. Penalize rape, whoever is responsible, including marital rape (France);
 8. Reform the Penal Code to cover offences such as sexual abuse against minors and to eliminate corporal punishment (Mexico);
 9. Improve the implementation of the law on granting asylum (Netherlands); A/HRC/10/84 Page 19;
 10. That features of Tuvalu's legal framework, which incorporates customary law but excludes those precepts which may be perceived as violations of human rights, and which always give precedence to the interpretation of law that is compatible with the international obligations, be singled out as good practices in the field of human rights (Mexico).
- 69. The recommendations noted in the report in paragraphs 31(b) and 50 (a) above did not enjoy the support of Tuvalu.**
- 70. All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and /or the State under review thereon. They should not be construed as endorsed by the Working Group as a whole**

Annex 7 Pacific Island Table of Treaty Ratification

(as at August 2010)

The following chart of States shows which are a party

(indicated by the date of adherence: ratification, accession or succession) or signatory (indicated by an "s")

Source: UN Office of Legal Affairs, Treaty Section, New York

(<http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterIV/chapterIV.asp>)

	ICESCR	ICCPR	ICERD	CEDAW	CAT	CRC	CRMW	CRPD	CPPED
Cook Islands				1 Oct 1985 via NZ		6 Jun 1997		8 May 2009	
Fiji			11 Jan 1973	28 Aug 1995		13 Aug 1993		S: 2 June 2010	
Kiribati				17 Mar 2004		11 Dec 1995			
Marshall Islands				2 Mar 2006		4 Oct 1993			
Micronesia (Federated States of)				1 Sep 2004		5 May 1993			
Nauru		S: 12 Nov 2001	S: 12 Nov 2001		S: 12 Nov 2001	27 Jul 1994			
Niue				1 Oct 1985 via NZ		20 Dec 1995			
Palau						4 Aug 1995			
Papua New Guinea	21 July 2008	21 July 2008	27 Jan 1982	12 Jan 1995		2 Mar 1993			
Samoa		15 Feb 2008		25 Sep 1992		29-Nov 1994			S: 6 Feb 2007
Solomon Islands	17 Mar 1982		17 Mar 1982	6 May 2002		10 Apr 1995		S: 23 Sept 2008	
Tonga			16 Feb 1972			6 Nov 1995		S: 15 Nov 2007	
Tuvalu				6 Oct 1999		22-Sep 1995			
Vanuatu		21 Nov 2008		8 Sep 1995		7 Jul 1993		23 Oct 2008	S: 6 Feb 2007

Indicates the date of adherence: ratification, accession or succession

Indicates the date of signature (Note: signature generates no legal implications)

ICESCR International Covenant on Economic, Social and Cultural Rights

ICCPR International Covenant on Civil and Political Rights

ICERD Convention on the Elimination of All Forms of Racial Discrimination

CEDAW Convention on the Elimination of All Forms of Discrimination Against Women

CAT Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

CRC Convention on the Rights of the Child

CRMW Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

CRPD Convention on the Rights of Persons with Disabilities

CPPED Convention for the Protection of all Persons from Enforced Disappearance

Annex 8 Press Release Sample

Tuvalu engages with Human Rights Council

Tuesday 16 December, Secretariat of the Pacific Community, Geneva, Switzerland

Tuvalu came before the Human Rights Council's Universal Periodic Review Working Group for the first time late last week, during which 23 Council members and observers raised a number of issues concerning the human rights situation in the country.

During a three-hour discussion, country delegations to the United Nations noted a number of positive achievements in Tuvalu.

These included the provision of free basic health care and education; measures taken to uphold the rights of young people and women; accession to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); progress made in achieving the Millennium Development Goals; efforts to mitigate the effects of climate change; the high rate of literacy in Tuvalu – 95 per cent; and progress made in human rights, in general, despite severe capacity restraints.

However, they also raised a number of issues concerning gender equality, violence against women, freedom of religion and access to court services, particularly for those living on outer islands.

Several delegations made specific recommendations for consideration by the Tuvalu Government, particularly concerning the rights of women and children.

These included eliminating any laws that discriminated against women and amending the constitution to include freedom from discrimination on the grounds of sex, as well as to ensure greater public awareness of domestic violence issues and the need to penalise all acts of rape regardless of the perpetrator.

Concerning the protection of children, it was recommended that Tuvalu reform the Penal Code to cover offences of sexual abuse against minors, eliminate corporal punishment and fully incorporate in its legislation the provisions of the Convention on the Rights of the Child.

The majority of delegations also called on Tuvalu to sign up to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights as soon as possible, and to set up a national human rights institution.

The international community was also called on to pay heed to the request for technical and financial assistance to meet human rights goals, in particular towards setting up human rights institutions. One delegation suggested that a single permanent mission in Geneva for all Pacific Islands be established as a means of fostering respect for human rights in the region.

Permanent Secretary for Foreign Affairs and Labour H.E. Enele Sopoaga headed Tuvalu's four-member delegation, which also included Attorney General Eselealofa Apinelu, Multilateral and International Affairs Officer Manaema Saitaia Takashi and Permanent Secretary for Home Affairs and Rural Development Seve Lausaveve.

Imrana Jalal, Human Rights Adviser at the Pacific Regional Rights Resource Team of the Secretariat of the Pacific Community (SPC/RRRT), served as an adviser to the delegation.

The UPR Working Group adopted the outcome report for Tuvalu yesterday (Monday 15 December).

The Universal Periodic Review (UPR) is a unique process that involves a review of the human rights records of all 192 UN member states once every four years. It provides an opportunity for all states to declare what actions they have taken to improve human rights situations in their countries and to overcome challenges to the enjoyment of human rights. The UPR process also includes sharing best human rights practices around the globe and is one of the key elements of the new Human Rights Council, which reminds states of their responsibility to fully respect and implement all human rights and fundamental freedoms. The ultimate aim of this new mechanism is to improve the human rights situation in all countries and address human rights violations wherever they occur.

Tonga was the first Pacific country to submit its Universal Periodic Report earlier this year. Vanuatu is scheduled to present its report in 2009. Fiji, Kiribati, the Marshall Islands and the Federated States of Micronesia are scheduled to report in 2010 and Nauru, Palau, Papua New Guinea, Samoa and Solomon Islands in 2011.

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Useful Websites

Mandat International

<http://www.mandint.org/>

United Nations Office of the High Commissioner for Human Rights

<http://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx>

Universal Periodic Review UPR-INFO.ORG

<http://www.upr-info.org/>