

# Teaching Handbook

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## Introduction to Chater-Based Body

# **THE UNIVERSAL PERIODIC REVIEW**

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This Teaching Handbook provides the knowledge on Universal Periodic Review of Charter Based Bodies. In this module, it explains more details of the Universal Periodic Review in a short and precise methodology; which is easy for everyone to absorb the knowledge of this Teaching Handbook.

## List of Abbreviations

UPR	Universal Periodic Review
OHCHR	The Office of High Commissioner for Human Rights
HRC	Human Rights Council
UN	United Nation
CSOs	Civil Society Organizations
NGOs	Non-Government Organizations
NGO CRC	Non-Government Organization Coalition on the Rights of the Child
HRDS	Human Rights Defenders
CED	Convention for the Protection of All Persons from Enforced Disappearance
CRPD	Convention on the Rights of Persons with Disabilities
ICCPR	International Covenant on Civil and Political Rights
ICESCR	international Covenant on Economic, Social and Culture Rights
CCHR	Cambodia Center for Human Rights
RGC	The Royal Government of Cambodia
NHRIs	National Human Rights Institutions
EU	European Union
CHRC	Cambodia Human Rights Committee

# Suggested Course Syllabus

## 1. Course Description

This short course is aimed at educating and raising awareness on the existence of mechanisms, which are created to protect the fundamental rights and freedom of men and women. The major focus is to explain what those mechanisms are, why they are needed and what is needed in order to make it effective.

In addition, the course will also analyze the implementation of those mechanisms in the context of Cambodia and try to reach conclusive results.

## 2. Course Objectives

- Is to educate students on Charter Based Bodies and Universal Periodic Review (UPR) and its legal framework.
- Is to inform students of their fundamental rights mandated by international law
- Is to teach students on how they can participate in protecting their rights by relying upon the legal framework set by international law.

## 3. Expected Learning Outcomes

- Students will begin to realize the importance of human rights.
- Students will know how to deal with oppression of their rights.
- Students will understand how and why it is important to keep the government in check.
- Students will know how other countries across the world deal with this issue.

## 4. Expectations of the Students

To exploit the learning productivity, students are expected to:

- a. Attend every class
- b. Participate in class activities
- c. Read the materials as assigned.
- d. Submit homework and assignments on time.

## 5. Mode of Delivery

All students are required to attend a weekly lecture. Each session will be conducted for 3 hours. Students are expected to prepare for these sessions by reading the materials that will be uploaded in Google Drive sharing with the students. During class, students are stimulated to discuss their ideas aggressively in class to conduct a great discussion around the topics. Students are required to do a quiz before every class start. Students are required to submit their homework or assignments on time. Students will have the opportunity to apply the theory in a practical way by engaging in icebreaker, debate, role-play and group discussion on case study during classes.

## 6. Students Assessment

The assessment for of this course consists of five different tasks: (1) attendance 10% (2) class participation 20%, (3) a midterm exam 25%, (4) a research paper 20% and (5) a final exam 25%.

- Attendance 10%: Students are expected to attend every class and to come to class on time. Students are required to request for leave permission by informing the lecturer through email or message by phone

number prior to the absence for approval, except for cases of emergency. Students who are absent for **5 times without permission or 6 times with permission** will fail the course automatically and are required to retake the course.

- Class participation 20%: Class Participation (Class activities / Role-play / Presentation / Homework / Quiz / icebreaker) Students are required to be actively participated in class discussions, role-plays and question and answer. Active class participation has an impact on the result of the final mark. Weekly quiz (From class 2 to the end of class = 0.5 mark awarded for partially completed quiz; 1 mark awarded for satisfactory quiz)
- Midterm exam 25%: Midterm Exam in class 7, this exam will be in class test. The questions will include one or two cases study in which students apply the principles or methods learned in previous classes (based on class 1-6). The midterm exam will also consist of multiple choice questions, True/ False and short-answer questions.
- Research paper 20%: Research Paper due in the end of class. This is a final research paper on a topic related to UPR, with 1000 words minimum. Footnotes are not included in the word count.
- Final exam 25%: Final Exam in the end of class, this exam will be in class test. The questions will include multiple-choice questions, True/false, short answer questions and one or two cases study. The final exam will examine module from the whole course.

## 7. Course Materials

### Reading Guide

The arrangement below are instructions and guidelines on how to reading and using this Teaching Handbook:

Firstly, the purpose of this handbook is to make an easy to read, available resource for lecturers of the course. This Handbook is intended to be a guide to lecturers as such it is flexible in nature so that lecturers can adjust the content as they see suitable with the student's requirements.

The basis of each module, a reading list is provided in a **Purple**.

Through each module key jurisprudence, primary source, and secondary sources are provided, for examples citations from international cases, treaties, the Human Rights Committee documents and textbooks. These key sources are provided in **Red**.

Another purpose of this handbook was to create learning activities such as group discussion, role-play, and case study and so on that would participate students during class and would improve their learning of the content of Mechanism of protection but also develop their academic skills generally. As such, a range of in-class activities is provided in each module in **Blue**.

Homework questions to go along with each module are provided at the end of foregoing the module in **Green**.

Lastly, glossaries of key terms and documents and difficult word are provided at the end of handbook. The purpose of these glossaries is take action as a checklist and dictionary of required knowledge for both the students and the lecturers.

## ***Module 8: Mechanisms of Protection: Introduction and the Example of Charter Based Body – Universal Periodic Review (UPR)***

### **Learning objectives of Module 8:**

This module aims to:

- Introduce the course objective, course materials and class activities.
- Explain the basic knowledge of UPR and its role.
- Provide the understanding of charter based bodies in the context of UPR and conceptual framework for the course.
- Help the students to remember through class activities.

### **8.1. Introduction to the Charter Based Body – UPR**

#### **Reading for lectures and optional for students:**

- Office of the High Commissioner for Human Rights, *What are Human Rights?*  
[https://www.ohchr.org/en/hrbodies/Pages/HumanRightsBodies.aspx#:~:text=Enforced%20Disappearances%20\(CED\)-,Charter%2Dbased%20bodies.meeting%20on%2019%20June%202006.](https://www.ohchr.org/en/hrbodies/Pages/HumanRightsBodies.aspx#:~:text=Enforced%20Disappearances%20(CED)-,Charter%2Dbased%20bodies.meeting%20on%2019%20June%202006.)
- United Nations Human Rights Council, *Basic facts about the UPR*  
[https://www.ohchr.org/en/hrbodies/upr/pages/basicfacts.aspx.](https://www.ohchr.org/en/hrbodies/upr/pages/basicfacts.aspx)

The lecturer should use this first Introduction to the Charter Based Body – UPR class by using Student’s Capacity Measurement in **Module 8.1 Activity 1** below.

#### ***Module 8.1 Activity 1: Student’s Capacity Measurement***

In this activity the lecturer should begin by asking students for their perspective about Human Rights Bodies and each body function.

#### **Questions:**

- Have you ever heard Charter Based Bodies? If you ever heard, can you tell me briefly about it?
- What is Universal Periodic Review in Charter Based Bodies?
- Do you think Universal Periodic Review will solve the human right problems effectively?

The lecturer should ask students what they first think of when they hear the term “charter based bodies” and “universal periodic review”. The lecturer should instruct students to form groups and allow 10-15 minutes for them to discuss the questions below.

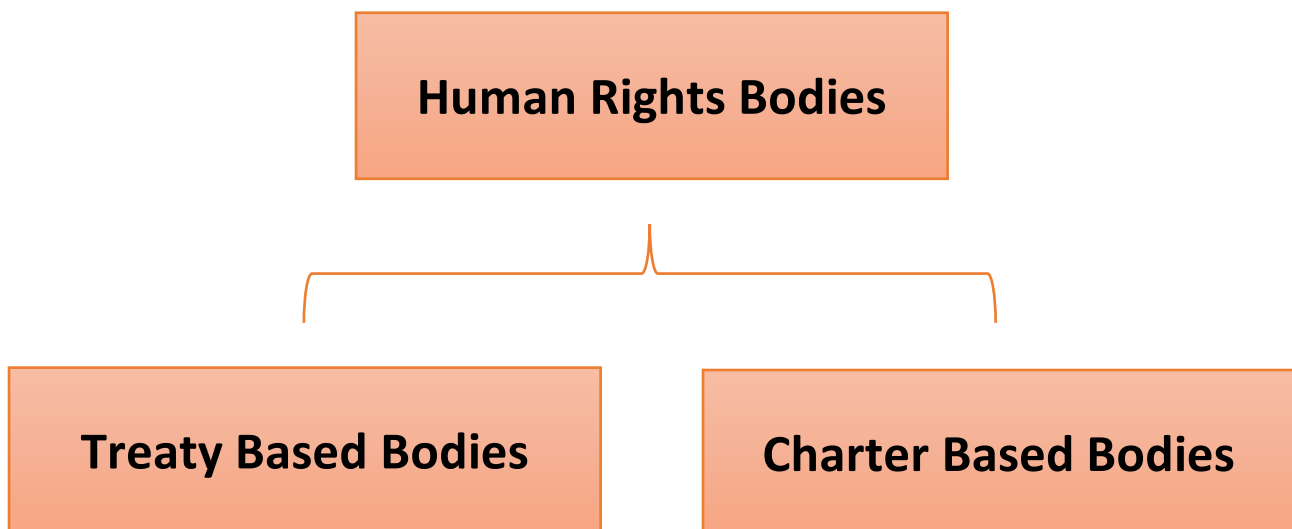
**Question 1: What comes to your mind when you hear the term “charter based bodies” and “universal periodic review”?**

**Question 2: Why do you think Universal Periodic Review exists when the office of the High Commissioner for Human Rights already governed and monitored State Parties’ treaty obligations?**

## LECTURE CONTENT

### *What is Universal Periodic Review in Charter Based Bodies?*

The Office of the High Commissioner for Human Rights (OHCHR) provides the best expertise of human rights monitoring mechanisms to ensure that the State Parties' compliance with their treaty obligation under the United Nations system, which is known as Human Rights Bodies.<sup>1</sup> Human Rights Bodies are divided into two bodies: Charter-based bodies and Treaty-based bodies.<sup>2</sup> In Charter-based bodies, there are Human Rights Council, Universal Periodic Review ("UPR"), Commission on Human Rights (Replaced by the Human Rights Council), Special Procedures of the Human Rights Council, and Human Rights Council Complaint Procedure.<sup>3</sup> Yet this teaching hand book only specifically focus on UPR. On 15 March 2006, UPR was created through UN General Assembly by **Resolution 60/251** in a purpose of reviewing each State's fulfilment of its human rights obligations and commitments under their treaty obligations and international laws in the field of human rights.<sup>4</sup> Furthermore, UPR is established to ensure equal treatment of human rights assessment for every country.<sup>5</sup>



<sup>1</sup> United Nations Human Rights Office of the High Commissioner, *Human Rights Bodies* (Aug 18, 2020, 14:09), [https://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx#:~:text=Enforced%20Disappearances%20\(CED\)-\\_Charter%2Dbased%20bodies.meeting%20on%2019%20June%202006](https://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx#:~:text=Enforced%20Disappearances%20(CED)-_Charter%2Dbased%20bodies.meeting%20on%2019%20June%202006).

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> General Assembly of United Nations, "Resolution 60/251. Human Rights Council", A/RES/60/251 (March 2006), [https://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251\\_En.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf).

<sup>5</sup> United Nations Human Rights Council, *Universal Periodic Review* (Aug 18, 2020, 14:38), <https://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx>.



## 8.2. Universal Periodic Review

### Learning objectives:

This section aims to provide a deeper knowledge of UPR including legal framework function, and its working process. After the students understand these knowledge, it is easy for them to catch up with the practicing of UPR on the International Level and Domestic Level in the next following sections.

### LECTURE CONTENT

Before UPR was introduced, the human rights situation and the enjoyment of human rights around the world were not good. Because there was no either institution or council that monitor the enjoyment or violation of human rights around the world. Although the violation of human rights existed in any country, there was no reported and no solution to alter the violation; unless that country wanted to solve or improve by themselves. In 2006, UPR is established as a special mechanism in the United Nations system of the Human Rights Council which no other universal mechanism of this kind exists yet in order to address human rights violations and to improve the human rights enjoyment situation of all 193 United Nations Member States.<sup>6</sup> All of UN Member States' human rights records have to be reviewed 4 years annually.<sup>7</sup> During the review, each State also has a chance to declare what actions that they have taken to improve the human rights situations in their countries and to fulfil their human rights obligation under legal human rights instruments.<sup>8</sup> Furthermore, UPR also shares the best practices between States and other stakeholders by providing technical assistance to States when requested as well.<sup>9</sup> As a result, UPR has played as a significant role in monitor human rights situation around the world and assist good solutions for States in response to the human rights problems as well.

The lecturer should use this first Introduction to the Charter Based Body – UPR class by using Student's Capacity Measurement in **Module 8.2 Activity 1** below.

#### *Module 8.2 Activity 1: Group Discussion*

The lecturer should ask students to form groups of four, in which they will share their opinion on each of the Universal Periodic Review legal frameworks and its function.

The lecturer should allow around 15 minutes. At the end of the session, the instructor should hand the students a quiz to evaluate how much they have gained from the class.

<sup>6</sup> UPR Info, *What is the UPR?* (Aug 18, 2020, 14:38), <https://www.upr-info.org/en/upr-process/what-is-it>.

<sup>7</sup> OHCHR, *Fact Sheet of Human Rights Council – Universal Periodic Review* (Aug 18, 2020, 13:06), <https://www.ohchr.org/EN/HRBodies/UPR/Documents/UPRFactSheetFinal.pdf>.

<sup>8</sup> Human Rights Council, *Universal Periodic Review* (Aug 18, 2020, 13:06), <https://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx>.

<sup>9</sup> OHCHR, *Fact Sheet of Human Rights Council – Universal Periodic Review* (Aug 18, 2020, 13:06), <https://www.ohchr.org/EN/HRBodies/UPR/Documents/UPRFactSheetFinal.pdf>.

## 8.2.1. Legal Frameworks of UPR

### Learning outcome:

At the end of this section, students will be able to understand the legal instruments that UPR is monitored over the human rights' State Parties. Because UPR only has jurisdiction or power to monitor on United Nations' human right instruments and international law of human right field.

### LECTURE CONTENT

UPR legal frameworks cover all legally binding human rights instruments of the State parties including treaties, conventions, covenants, and other international law of human rights field.<sup>10</sup>

Instruments relate to human rights:

- **Freedom of Association**  
Eg. Freedom of Association and Protection of the Right to Organise Convention.
  - **Rights of the Child**  
Eg. Convention on the Rights of the Child.
  - **War Crimes and Crimes against Humanity, including Genocide**  
Eg. Convention on the Prevention and Punishment of the Crime of Genocide.
  - **Rights of Persons with Disabilities**  
Eg. Convention on the Rights of Persons with Disabilities.
  - **Prevention of Discrimination**  
Eg. International Convention on the Elimination of all Forms of Racial Discrimination.
  - **Right to Health**  
Eg. Declaration of Commitment on HIV/AIDS.
  - **Humanitarian Law**  
Eg. Geneva Convention relative to the Protection of Civilian Persons in Time of War.
  - **Rights of Indigenous Peoples and Minorities**  
Eg. Indigenous and Tribal Peoples Convention.
  - **Rights of Migrants**  
Eg. International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
  - **Nationality, Statelessness, Asylum and Refugees**  
Eg. Convention relating to the Status of Refugees
  - **Rights of Women**  
Eg. Convention on the Elimination of All Forms of Discrimination against Women.
- ..., etc.

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<sup>10</sup> General Assembly of United Nations, "Resolution 60/251. Human Rights Council", A/RES/60/251 (March 2006), [https://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251\\_En.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf).

## 8.2.2. The Function and Working Process of Universal Periodic Review

### Learning outcome:

This section will help students to gain knowledge and understand on the UPR function and its working process. The lecture will also highlight a full-circle process of UPR such as: preparation for the review stage, review of the human rights situation of the State under review and adoption of the report, and implementation of recommendations and reporting at mid-term.

### LECTURE CONTENT

UPR is function as a monitor of reminding States' human rights responsibility and implementing all human rights and fundamental freedoms in all countries. Institution-building of the United Nations Human Rights Council set s out the main elements of UPR such as: UPR working group carries out the review, meets in three sessions per year, sixteen countries are reviewed at each session, a four year-cycle to complete review of all 193 Member States of the UN, working documents series symbol, and reports.<sup>11</sup> In addition, UPR working group session take place at the UN office at Geneva at the Palais des Nations.<sup>12</sup> For each review is facilitated by groups of three States, or “troikas”, -drawn by lot – who act as rapporteurs.<sup>13</sup>

UPR working process is a full-circle process comprised of three key stages such as: preparation for the review, review of the human rights situation of the State under review and adoption of the report, and implementation of recommendations and reporting at mid-term.<sup>14</sup>

In the first stage, there is a basis of review before the review will be conducted. In regard to basis of review, three reports serve as a basis for each State review and provide three kinds of information.<sup>15</sup> First, national report is State's information on achievements and best practices, and challenges and constraints, as well as key national priorities in addressing shortcomings. Second, information contained in the reports of the independent human rights experts and groups such as human rights treaty bodies and other UN entities, which is known as the Special Procedures. Third, information from non-governmental organizations, national human rights institutions and “other stakeholders”.

In regard to the second stage of reviewing process to adoption, firstly, it has an interactive dialogue between the State under review and the council takes place in the Working Group.<sup>16</sup> Then “troikas” may compile questions submitted in advance by other States to be shared with the State under review to ensure an effective interactive dialogue. After that any of the 192 UN Member States may participate in the reviews, including in the interactive dialogue. Other relevant stakeholders, such as NGOs or national human rights institutions, may

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<sup>11</sup> Dag Hammarskjöld Library, *UN Documentation: Human Rights* (Aug 18, 2020, 13: 32), <https://research.un.org/en/docs/humanrights/charter>.

<sup>12</sup> OHCHR, *Fact Sheet of Human Rights Council – Universal Periodic Review* (Aug 18, 2020, 13:06), <https://www.ohchr.org/EN/HRBodies/UPR/Documents/UPRFactSheetFinal.pdf>.

<sup>13</sup> Ibid.

<sup>14</sup> UPR Info, *What is the UPR?* (Aug 18, 2020, 14:38), <https://www.upr-info.org/en/upr-process/what-is-it>.

<sup>15</sup> OHCHR, *Fact Sheet of Human Rights Council – Universal Periodic Review* (Aug 18, 2020, 13:06), <https://www.ohchr.org/EN/HRBodies/UPR/Documents/UPRFactSheetFinal.pdf>.

<sup>16</sup> Ibid.

attend the reviews in the Working Group. The duration of the review is three hours for each country in the Working Group. An additional half hour is allocated for the adoption of the report of each country under review in the working group. The working group adopts the report after the troika presents the report to them. Secondly, the adoption of the outcome refers to time which is allocated during the next regular session of the Human Rights Council following the State review in order to consider the outcome of each review (up to one hour per State). After that member and observer States, as well as NGOs and other stakeholders, may participate in these plenary meetings to consider the UPR reviews. The final outcome of the review is adopted by the entire membership of the Human Rights Council at this plenary session.

The third stage is the implementation of recommendation and reporting at mid-term stage. The outcome of the UPR should be implemented primarily by the State concerned and, as appropriate, by other stakeholders. The follow-up review to take place during the 2nd cycle (2012-2015) should focus on the implementation of the recommendations of the previous review. Moreover, the international community will assist in implementing the recommendations and conclusions regarding capacity-building and technical assistance in consultation with, and with the consent of, the country concerned. In considering the outcomes of the UPR, the Council will decide if and when any specific follow-up is necessary. On the other hand, there is also cooperation with universal periodic review as well. It means that the council will address, as appropriate, any cases of persistent non-cooperation with the UPR mechanism after exhausting all efforts to encourage a State to cooperate.

### **8.2.3. Standard Procedure of UPR**

The procedure applies to all 193 members, each respective members of the United Nations will mandatorily participate in the assessment, evaluation, recommendation process under UPR. Information provided by the State, which normally takes the form of:

- A national report.<sup>17</sup>
- Information compiled from reports of special procedures mandate holders, human rights treaty bodies and UN entities ('Compilation of UN information', prepared by OHCHR).<sup>18</sup>
- Information from other stakeholders, including NHRIs and NGOs ('Summary of stakeholders' information' prepared by OHCHR).<sup>19</sup>

States under review will then partake interactive dialogues with observing states of the council. The UPR process is cyclical in nature, repeating every 5 years. Every review follows the same format in Geneva. Each examination, conducted by the UPR Working Group, takes 3.5 hours.<sup>20</sup> During this time the council is given the opportunity to address issues and discrepancies to the states under review and propose various forms of recommendations . At the end of the session an outcome document will be produced for the Human Rights Council to adopt.

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<sup>17</sup>3<sup>rd</sup> UPR cycle: contributions and participation of "other stakeholders" in the UPR, OHCHR.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

## A. Civil Society Participation in UPR

CSOs (Civil Society Organizations) are encouraged to participate and influence the UPR process. While there are limitations to the level of participation, there consists of five main forms of involvement.<sup>21</sup> Civil society engagement in the UPR has proven to be crucial for its success in implementing progressive policies on human rights across the globe. Without the voice and work of CSOs, and HRDs running throughout the UPR, the Geneva based review process would have less of an impact on the ground. Participate in the national consultations held by the State under Review;

As stipulated under ([Resolution A/HRC/RES/5/1](#)) states are encouraged to hold a broad consultation with relevant stakeholders on a national level one year before the review. This provides an ample opportunity for NGOs to draw public attention and interest to UPR.<sup>22</sup>

- Send information on the human rights situation in the country;

Any civil society actors, national institution, NGOs, human rights defenders, local associations, grass root organizations, trade unions, indigenous peoples can help provide relevant information to assist the OHCHR before the commencement of the review.<sup>23</sup>

- Lobby members of the Working Group

NGOs are able to petition to states to acknowledge and illuminate on certain issues during the interactive dialogue period, through advance questions or recommendations. Lobbying can take place in Geneva or during the review period.<sup>24</sup>

In the State under Review: lobbying can take place in the country under Review through **embassies**. This lobbying must be done **3 to 4 months** before the date of review as the information has then to be sent to the capital and to the mission in Geneva<sup>25</sup>

In Geneva: it is strongly advised to come at least **one month before** the date of review as drafting a statement takes time and notably consultations between the capital, the embassy in the country under review and Geneva. For more efficiency, make sure to contact the diplomat who is in charge of the UPR or the Human Rights Council.<sup>26</sup>

- Take the floor at the Human Rights Council during the adoption of the report.

At the HRC plenary session, ten NGOs are given two minutes to each where they can make oral statements or present in video form if physical attendance is not possible. Additionally, NGOs can submit written statements under any item, including "item 6" which is dedicated to the UPR.<sup>27</sup>

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<sup>21</sup> Roles of CSO, UPR info

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

- Monitor and participate in the implementation by the State under Review of the UPR recommendations.

NGOs serves a crucial role during this period, States under review are morally obligated to implement recommendations and involuntary pledges that they have vowed. Therefore, NGOs must observe the state's actions to see if they are conforming or not and submit a Report to the Human Rights Council on the progress by publishing a mid-term report or by making a statement at any "general debate" under item 6.<sup>28</sup>

### **B. The Effectiveness of UPR**

According to Louise Arbour, High Commissioner of Human Rights, the effectiveness of the application of UPR is solely dependent upon state's willingness to open up to scrutiny.<sup>29</sup> Ever since introduction of this innovative procedure, UPR has achieved a one hundred percent participation of all states, a feat of accomplishment that no other human rights mechanism has come close to.<sup>30</sup> Through UPR countries such as Fiji, Cote d'Ivoire, China has taken criticism with good in stride and has made a drastic effort to improve human rights. As a result of the implementation of UPR, Fiji has abolished its death penalty. Cote d'Ivoire has created laws on the protection of human rights defenders.<sup>31</sup>

The mechanism has led to CSO coalition-building, both for joint submissions to the UN in advance of the UPR, and to follow-up on the implementation of recommendations.<sup>32</sup> Effective coordination can be seen in civil society coalitions in Australia, Singapore, Ireland, Kenya, and Thailand. Thus, strengthening the core value of human rights in all states.

### **C. The Challenges of UPR**

Considering that UPR was introduced 14 years ago, there are still imperfections with the procedure notably the lack of a follow up mechanism including the establishment of national plans of action and national coordinating mechanisms.<sup>33</sup> not all states are open to creating a inter-ministerial UPR working group responsible for coordinating implementation efforts, this indicates a lack of dedication to its human rights obligations.<sup>34</sup> Secondly, while states are encourage to engage in broad consultation with civil society, most countries do allocate resources to realize this point. Thirdly governments partnerships with CSO are rarely truly transparent, if they could place trust the accumulated efforts would complement each other towards achieving UPR recommendations. The UPR works best when all stakeholders stick to the idea of cooperation and universality.<sup>35</sup>

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<sup>28</sup> Ibid.

<sup>29</sup> Taking stock-the Universal Periodic Review's achievements and opportunities, Aoife Hegarty and Hans Frudlund

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

The lecturer can give the following homework for the students in order to test their understanding and knowledge.

### **Module 8.2.3 Activity 1 Homework**

#### True or False

1. UPR requires that SuR (State under Review) provide the council with 3 documents before the interactive dialogue.
2. CSO (Civil Society Organization) are not allowed have oral statements after the review process.
3. There are 10 main ways CSO can participate in UPR.
4. According to the High commissioner of Human Rights, UPR can only be successful if state are ready to receive scrutiny and critics.
5. UPR has proven to regress the advancement of human rights.

#### Multiple choice

1. There are how many members to UPR?
  - A. 42
  - B. 123
  - C. 193
2. UPR cycle last for
  - A. 2.5 years
  - B. 4 years
  - C. 4.5 years
  - D. 5 years
3. Every year how many members are under reviewed?
  - A. 42
  - B. 32
  - C. 50
4. The participation rate from member states are
  - A. 80%
  - B. 70%
  - C. 90%
  - D. 100%

## 8.2.4 Example of UPR in Cambodia

### Learning outcome:

This example of UPR in Cambodia aims to providing knowledge to all students about UPR in Cambodia, how many time UPR Cycle that Cambodia have been review, and what are the recommendation that Cambodia received from reviewed, students will be able to understand about UPR process, Civil Society Participation such as: all relevant stakeholders, their actions, and why they should do and understand about the effectiveness and Challenges of UPR in Cambodia.

The lecturer should use the warm-up activity for students to accelerate students' knowledge of UPR in **Module 8.2.4 Activity 1** below.

### Module 8.2.4 Activity 1: Warm-Up

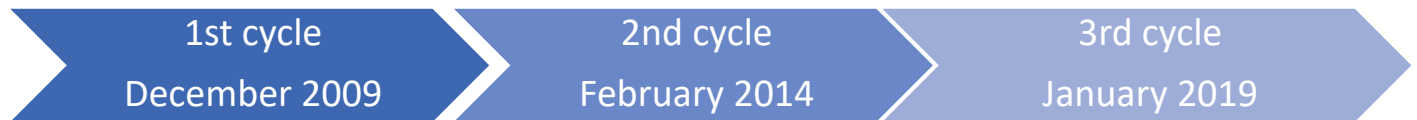
In this Activity the instructor will ask the students about their knowledge regarding to UPR of Cambodia.

Lecturer will call some of students to answer the question

This Activity will be 10-15 minutes.

## LECTURE CONTENT

UPR in Cambodia are three-time cycle:<sup>36</sup>



- First Cycle

The outcome of the first cycle in December 2009, Cambodia accepted all the 138 recommendations from states, but did not implement any of them.<sup>37</sup> The key recommendation is “ensure the independence of the judiciary, without any political intervention”, but Cambodia has not taken any actions to strengthen the independence of justice and “protect freedom of expression and the right of all Human rights defenders”.<sup>38</sup> According to outcomes report from working group, the first cycle recommendation are also including “ratifying the **International Convention for the Protection of All Persons from Enforced Disappearance** (CED) and the **Convention on the Rights of Persons with Disabilities** (CRPD); the two **Optional Protocols to the International Covenant on Civil and Political Rights** (ICCPR); the **Optional Protocols to the Convention on the Elimination of All Forms of Discrimination against Women and CRPD**; and **Convention No. 169 of the International Labor**

<sup>36</sup> The Universal Periodic Review Available at: <http://sithi.org/temp.php?url=upr/infographic.php&lg=&id=3>.

<sup>37</sup> The Universal Periodic Review about First Cycle Available at: <http://sithi.org/temp.php?url=upr/infographic.php&lg=&id=4>.

<sup>38</sup> Ibid.



**Organization**, and accomplish the human rights goals set by Human Rights Council resolution, Take measures to ensure everyone's equal access to justice, in accordance with international standards".<sup>39</sup>

- Second Cycle

Regarding to report from CCHR, The outcome of second review in 2014, Cambodia received 205 recommendations, the RGC rejected: 4 recommendations, noted: 38 recommendations and Accepted: 163 recommendations.<sup>40</sup> For accepted recommendation "ensure freedom of assembly and association and recognize the importance of trade unions and a diverse civil society"- Cambodia has made it difficult for workers to form unions and for citizens to form associations with its restrictive, time-consuming, and often costly regulations, if two draft laws on trade unions and associations are passed, it will only further erode these fundamental rights.<sup>41</sup> the noted recommendation: "Investigate impartially cases of use of excessive force against protesters and cases of killings during the recent demonstrations" – in January 2014, protesters were beaten, arrested, and five killed with live ammunitions by security force. No investigations into the behavior of state agents during the protests has been launched.<sup>42</sup> The rejected recommendation: "protect free and independence media, namely through the revocation of article 305 of the penal code"- the defamation law (Article 305) allows for government officials to charge a political opponent, protester, or any other dissenter with defamation in the criminal counts for criticizing them.<sup>43</sup>

- Third Cycle

The Outcome of Cambodia's third UPR 2019 are In January 2019 Cambodia received 198 recommendations from 73 UN Member states.<sup>44</sup> The recommendation on a wide range of human rights issues, In July 2019, the Royal Government of Cambodia (RGC) accepted 173 recommendations on a wide range of Human Rights issue, including land rights, fair trial rights, the protection of human rights defenders, child rights. Women's Rights and Sexual Orientation and General Identity and Expression (SOGIE) rights and The RGC noted 25 recommendations on the primarily on fundamental freedom, media freedoms and release of political prisoners.

## **A. Civil Society Participation in UPR of Cambodia**

### **Learning outcome:**

The UPR working group that is collected by all UN members and managed by the Human Rights Council president conducts the UPR. <sup>45</sup> The review is based on information providing in the three main reports. Firstly,

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<sup>39</sup> The outcome of review first Cycle from working group Available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/KHindex.aspx>.

<sup>40</sup> The Universal Periodic Review and Cambodia about Second Cycle Available at: <https://cchrcambodia.org/admin/media/newsletter/newsletter/english/UPR-Eng.pdf>.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> The Universal Periodic Review about Third Cycle Available at: <http://sithi.org/temp.php?url=upr/infographic.php&lg=&id=11>.

<sup>45</sup> The Universal Periodic Review, the review process, Available at: <http://sithi.org/upr/infographic/ENG-UPR-Process-Review.pdf>.

The States under review clarifies accomplishments and Challenges confronted in implementing recommendations since the earlier review in its national report. The states are stimulated to consult with national bodies and CSOs when it is compiling its own report. Secondly, the compilation of UN information, prepared by the UN office of the high commissioner for Human Rights (OHCHR) comprises information from various UN agencies, special procedures and treaty bodies about recent development in the Human Rights situation of the state under review. Lastly, OHCHR summarizes reports submitted by civil society organizations and national human rights institutions into the shareholders summary. Submissions from CSOs typically focus on a particular thematic area. Organizations may also wish to collaborate with other CSOs to create a joint report, demonstrating a united voice of civil society on the international arena.<sup>46</sup>

During the UPR, the state under review also presentation its national report, explains & highlight the recent human rights situation and actions under taken to implement recommendations accepted in the last report. Other UN Member states provide recommendations on how the state under review can improve Human Rights.<sup>47</sup>After the review process is finished, the state recommendations accepted, it is to make a political commitment to implement that recommendation before the next review; or, note the recommendations received.<sup>48</sup>

## LECTURE CONTENT

The UPR process provides for the participation of all relevant stakeholders.<sup>49</sup>

- ✓ Any civil society actors
- ✓ Non-governmental organizations (NGOs)
- ✓ National human rights institutions (NHRIs)
- ✓ Human rights defenders
- ✓ Local associations
- ✓ Grass root organizations
- ✓ Trade unions
- ✓ Other groups and organization that do not usually engage with the UN.

### *Civil Society Participate actions:*

First, Civil society are encouraged to provide written information for the stakeholders' report that is to be considered during this review. Then, in their submissions, CSOs are encouraged to suggest new recommendations, and repeat previous recommendations where relevant. Next, Official Stakeholders can also

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<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

<sup>49</sup> Civil Society Participate in UPR, Available at:

[https://cchrcambodia.org/index\\_old.php?url=media/media.php&p=newsletter\\_detail.php&nsid=83&id=5](https://cchrcambodia.org/index_old.php?url=media/media.php&p=newsletter_detail.php&nsid=83&id=5).

appear and perceive the UPR working Group. CSOs are not permissible to take the floor during the review but they can be present in the room. During the adoption of the report of the working group at the HRC plenary session, 20 minutes are allocated to NGOs to make statements. After the review, CSOs can support and collaborate with all stakeholders in the implementation of recommendation as well as monitoring and report on the implementation of supported recommendations and raise awareness with the media on the states assurance to implements her recommendation.<sup>50</sup>

*Participate of Civil Society Organizations:*

The Civil Society Organization can inspiration the outcome of the review; Their reports provide a basis for advocacy to recommending states in advance of the interactive dialogue; They give their valuation of the Human Rights situation, in Comparison with the national report; They are critical in monitoring the implementation of the recommendations, thereby increasing the impact of the UPR and promoting the adoption of progressive human right policies.<sup>51</sup>

The lecturer should use UPR role play by letting them to understand and practice the UPR activities in **Module 8.2.4 Activity 2** below.

**Module 8.2.4 Activity 2 Role Play**

Lecture will send the real video of UPR before class. Then, Students will be performance as states members that it must be have Cambodia in this activity, UN, Secretary, and Media in class,.

Lecturer should allow 1hour for this activity

Students will get score from this activity.

**B. The Effectiveness of Cambodia UPR**

**LECTURE CONTENT**

The effectiveness from UPR in Cambodia, even a lots recommendations from the states and Cambodia cannot implements all the recommendation, but Cambodia also ratify some of Conventions, Government draft any law, and achieved and recognize related to improve Human Rights. The bellow are some of achievement of the government from the Universal Periodic Review.

During the first cycle, NGO CRC did not have a specific plan; they did not plan to submit joint reports, only separate submissions. However, in the second cycle, they submitted joint reports, and engaged with international children's rights NGOs. They also cooperated with other NGOs dealing with other related issues. He remarked that before the 1993 general election in Cambodia and before the first UPR cycle, NGOs did not

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<sup>50</sup> Civil Society Participate in UPR, Available at: [https://cchrcambodia.org/index\\_old.php?url=media/media.php&p=newsletter\\_detail.php&nsid=83&id=5](https://cchrcambodia.org/index_old.php?url=media/media.php&p=newsletter_detail.php&nsid=83&id=5)

<sup>51</sup> Ibid

really cooperate or connect with each other. However, they [NGO CRC] lobbied for the RGC to ratify two optional protocols to the Convention on the Rights of the Child, which they did, in 2002 and 2004.<sup>52</sup>

According from media brief- OHCHR, During First Cycle to Second Cycle, Cambodia started accepted and open some of statement such as:<sup>53</sup>

- At its first UPR in December 2009, the Cambodian delegation accepted 91 recommendations. As a result, the Government set up an inter-governmental working group to follow up on the outcome of this first meeting;
- Cambodia has ratified nine international conventions and organized two seminars to examine the possibility of ratifying the optional protocols to the ICCPR and the OP to the ICESCR;
- The head of delegation noted that there was no need to extend a standing invitation to Special Procedures as they were welcome to visit Cambodia at any time;
- At present there were a number of organizations working on human rights issues in Cambodia including the Human Rights and Complaints Commission of the National Assembly, the Cambodia Human Rights Committee and an office of the Office of the High Commissioner for Human Rights;
- On the land reform issue, the Government continued to register all types of land aiming to strengthen the safety of land ownership ensuring the confidence and effectiveness of land use. To date, the Government has registered over 2.8 million land title deeds for 500,000 families;
- The Government recognized the illegal land ownership on a provisional basis of the people waiting until they can find a legal location to reside;
- Regarding the land of indigenous people, the Government had a policy, regulations, laws and formalities to protect and recognize the land rights of the indigenous community;
- The Government continued to carry out deep reforms on legal and judiciary issues and has adopted 416 laws aimed to enhance the legal framework. The Government also endeavored to enact additional laws related to the judiciary system within the first semester of 2014;
- The election of the national assembly for a fifth mandate was conducted on 28 July 2013. Following recommendations received from the EU and the UN Special Rapporteur, among others, the Government called on the Ministry of Interior to organize a national workshop seeking to draft electoral reforms;
- The Government encouraged civil society organizations and NGOs working to serve the people across the country and welcomed their participation to restore and develop the socio-economy and to promote democracy and human rights. The Government drafted a law on associations and NGOs which was approved unanimously;

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<sup>52</sup> 2014 Post-UPR national consultation outcome report, response by Mr. Meas Somnang, Available at: [file:///C:/Users/Admin/Downloads/Documents/2014\\_09\\_30\\_CCHR\\_Outcome\\_Report\\_Post\\_UPR\\_Consultation\\_ENG.pdf](file:///C:/Users/Admin/Downloads/Documents/2014_09_30_CCHR_Outcome_Report_Post_UPR_Consultation_ENG.pdf).

<sup>53</sup> Universal Periodic Review – Media brief, Available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/Highlights28January2014pm.aspx>.

- The Government permitted civil society organizations to hold public forums that provided a platform for expressing their opinions freely. There were a number of NGOs in the country working to educate, disseminate and provide training on human rights issues throughout the country;
- The Government drafted a law, which endeavored to establish a national human rights institution in compliance with the Paris Principles and, to this end, sought to initiate a national workshop to gather input recommendations from various experts to improve this draft law, which will eventually be submitted to the Council of Ministers for further legal action.

Regarding from media brief- OHCHR, The Positive achievements noted by delegations included, among others:<sup>54</sup>

- The ratification of the Conventions on the Rights of Persons with Disabilities, on Enforced Disappearances and the Optional Protocol to the Convention on the Elimination of all forms of Discrimination Against Women;
- The reforms in the legal and judicial systems in compliance with international standards;
- Progress achieved in the areas of women's rights and achievements made in maternal mortality;
- The degree of cooperation that the Government had shown in its engagement with the Special Rapporteur on Human Rights in Cambodia;
- Cambodia's ratification of the Optional Protocol against Torture;
- The fact that Cambodia had already achieved nearly all Millennium Development Goals.

### **C. The Challenges on Implement of Recommendation from UPR of Cambodia**

#### **LECTURE CONTENT**

The main challenge of UPR in Cambodia is three-time cycle are many recommendations but Cambodia are failure to implement the recommendation from the review. At the time of the two previous cycles (first and second cycle) of UPR, the RGC accepted 301 recommendations beyond 343 recommendations, but has largely unsuccessful to implementation the accepted recommendations. Meanwhile Cambodia's previous UPR in 2014, the government has strengthened its offensive on Cambodia's political opposition, civil society, and independent media, with the purpose of dismantling, quieting, and exiling them in the lead-up to the general selection on July 29, 2018.<sup>55</sup>

Some of the challenges complicated in the implementation of UPR recommendations in Cambodia, such as their existence too many recommendations, that many of these recommendations are often unclear and difficult to implement, issues of resources and proficiency at the CHRC, problems related to a lack of

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<sup>54</sup> Ibid.

<sup>55</sup> Submission to the Universal Periodic Review of Cambodia Available at: <https://www.hrw.org/news/2018/07/13/submission-universal-periodic-review-cambodia>.

communication between Ministries, and too great of a focus on reporting. Therefore, there should be less of a focus on reporting and more on implementation, noting that good implementation results always makes reporting in the next cycle easier.<sup>56</sup>

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<sup>56</sup> 2014 Post-UPR national consultation outcome report, response by Ms. Chatherine Phuong, Available at: [file:///C:/Users/Admin/Downloads/Documents/2014\\_09\\_30\\_CCHR\\_Outcome\\_Report\\_Post\\_UPR\\_Consultation\\_ENG.pdf](file:///C:/Users/Admin/Downloads/Documents/2014_09_30_CCHR_Outcome_Report_Post_UPR_Consultation_ENG.pdf)

# Glossaries of Terms, Legal Documents

## Terms

- Charter-based body
- Treaty-based body
- Human Rights

## Legal Documents

- Cambodia Center for Human Rights Reports
- OHCHR
- UPR information

## Reading Materials

- Mandatory Reading Material:
  - + 2014 Post-UPR national consultation outcome report  
[file:///C:/Users/Admin/Downloads/Documents/2014\\_09\\_30\\_CCHR\\_Outcome\\_Report\\_Post\\_UPR\\_Consultation\\_ENG.pdf](file:///C:/Users/Admin/Downloads/Documents/2014_09_30_CCHR_Outcome_Report_Post_UPR_Consultation_ENG.pdf)
  - + UPR Info, *What is the UPR?*  
<https://www.upr-info.org/en/upr-process/what-is-it>
- Further Reading Material:
  - + Office of the High Commissioner for Human Rights, *What are Human Rights?*  
[https://www.ohchr.org/en/hrbodies/Pages/HumanRightsBodies.aspx#:~:text=Enforced%20Disappe arances%20\(CED\),Charter%2Dbased%20bodies,meeting%20on%2019%20June%202006](https://www.ohchr.org/en/hrbodies/Pages/HumanRightsBodies.aspx#:~:text=Enforced%20Disappe arances%20(CED),Charter%2Dbased%20bodies,meeting%20on%2019%20June%202006)
  - + United Nations Human Rights Council, *Basic facts about the UPR*  
<https://www.ohchr.org/en/hrbodies/upr/pages/basicfacts.aspx>
  - + Universal Periodic Review – Media brief,  
<https://www.ohchr.org/EN/HRBodies/UPR/Pages/Highlights28January2014pm.aspx>
  - + The outcome of review first Cycle from working group Available at:  
<https://www.ohchr.org/EN/HRBodies/UPR/Pages/KHindex.aspx>
  - + The Universal Periodic Review and Cambodia about Second Cycle Available at:  
<https://cchrcambodia.org/admin/media/newsletter/newsletter/english/UPR-Eng.pdf>
  - + General Assembly of United Nations, “Resolution 60/251. Human Rights Council”, A/RES/60/251  
[https://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251\\_En.pdf](https://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf)