Increasing WHO-UPR Engagement on the Right to Health
Gender, Equity and Rights (GER), WHO HQ

Background: What is the UPR?

The Universal Periodic Review (UPR) is a peer-review mechanism established by the UN Human Rights Council. Under the process, all UN Member States present for review their efforts to meet their human rights obligations, as defined in international law. The review draws its conclusions after considering 3 separate sources of information on states’ efforts: (1) a national report submitted by the State under review (most often led by the Ministry of Foreign Affairs); (2) a compilation of information from UN human rights bodies (eg the Committee for the Rights of the Child, the Committee on economic, social and cultural rights) and other UN entities, and (3) a compilation of information from other stakeholders such as NGOs and national human rights institutions. The review process (led by a rotating troika of 3 states) culminates in the adoption of recommendations to the State under review. Currently, the UPR has completed two full 4-year cycles so each State has now been reviewed twice. The third cycle is just getting underway. As the UPR process evolves, there is a growing emphasis on examining implementation and action taken on recommendations made in the previous cycle.

The UPR is one of the most important international procedures for addressing human rights violations. Its reporting mechanism focuses on a wide variety of rights, contributing to its unique and collective nature. Currently, the UPR makes more health-related recommendations than most treaty-body mechanisms, and is a forum for UN Member States to peer review the human rights condition of the State under Review, offering opportunities for pressure to influence change. However, recommendations on the “right to health” are still vague and seemingly arbitrary, posing a number of problems in actually witnessing sustainable modification in global health systems. Critics of the UPR have often focused on the lack of specificity of recommendations, and the limited attention given to economic, social and cultural rights.

The objective and methods of the project

To this end, WHO’s collaborative agreement with the University of Essex’s Human Rights Clinic will produce research that provides a basis for:

- improving the way health-related human rights issues are identified and prioritized by relevant stakeholders including the reporting state;

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2 These are defined in the Information and guidelines on UPR as including NGOs, national human rights institutions, human rights defenders, academic institutions and research institutes, regional organizations, as well as civil society representatives.
strengthening the capacity of member states participating in UPR reviews to formulate clear, actionable and measurable recommendations on these issues.

This is a two-year research project of the Human Rights Clinic, Human Rights Centre, University of Essex, for the Gender, Equity and Rights team at the World Health Organisation which has the following components:

- **Year 1 (November 2015-June 2016):** Develop a methodology for review, and conduct a desk review of all recommendations made to all UN member States in the first review cycle (2008-2012) of the UPR to determine the type, frequency and intensity of recommendations related to health. This part of the project was completed in the summer term, 2016. The project found that health was addressed in 22 per cent of recommendations made to States under Review in the first cycle. The project also looked at regional breakdowns, which health issues were most frequently raised in the UPR review recommendations, and compared regional/national incidence of particular health issues (e.g. HIV/AIDS, maternal mortality, lack of access to safe drinking water and sanitation) with regional/national frequency of recommendations on this issue. The findings are not yet publically available but interested students are welcome to contact Judith Bueno de Mesquita (jrbuen@essex.ac.uk) for a copy of the first year report.

- **Year 2:**
  
  a. Based on the methodology developed in year 1, review in depth the recommendations issued to 8 selected countries in the first and second UPR cycles, investigate implementation, and analyse the degree of synergy between national health priorities and the recommendations made to each of these States by the UPR Working Group. This part of the project will be undertaken in November 2016-March 2017.
  
  b. Write a report highlighting the research findings for years 1 and 2 (year 1 findings have already been written up so can be easily incorporated). Based on these findings, (i) identify strategic entry points for WHO staff (in HQ and/or country offices) to engage with the UPR process at the global and national level; (ii) propose recommendations for how to better frame health recommendations, for consideration in the guidance provided to states under review (iii) Develop guidance and provide illustrative examples for the Working Group members and Secretariat of the UPR on how to formulate clear and actionable recommendations and how to use and reference appropriate WHO and other UN guidance and resources that reflect a right to health. This part of the project will be undertaken in April-June 2016.
Project Outline for Year 2 (November 2016-June 2017)

Year 2 Phase 1 (November 2016-March 2017)

The clinic team will familiarise itself with the report prepared by the team from the 2015-2016 academic year, other research outputs of the first year team, including a pilot study on Indonesia which is intended to support the year 2 review of 8 countries, and the methodology and conceptual framework for the project. There will be a meeting of the Clinic team with at least one member of last year’s team to facilitate the handover.

The team will also read important publications on the UPR relating to the right to health, namely UNFPA, *Lessons from the First Cycle of the Universal Periodic Review: From Commitment to Action on Sexual and Reproductive Health and Rights* (UNFPA, 2014) [https://www.unfpa.org/sites/default/files/pub-pdf/Final_UNFPA-UPR-ASSESSMENT_270814..pdf](https://www.unfpa.org/sites/default/files/pub-pdf/Final_UNFPA-UPR-ASSESSMENT_270814..pdf); as well as Center for Economic and Social Rights, *The Universal Periodic Review: A Skewed Agenda?* (CESR, NY, 2016) [http://www.cesr.org/section.php?id=240](http://www.cesr.org/section.php?id=240), and the recent report of the Universal Rights Group, *Stick or Twist* (July 2016) [http://www.universal-rights.org/urg-policy-reports/towards-third-cycle-upr-stick-twist/](http://www.universal-rights.org/urg-policy-reports/towards-third-cycle-upr-stick-twist/). In November, the team will prepare a 2-3 page document with key findings of these reports that may be relevant to the project, research methodologies and research gaps insofar as this might be relevant to research of this project.

Building on the criteria developed and agreed with the WHO, and an Indonesia pilot study by last year's clinic team in June 2016, the clinic team will review an additional 8 countries in their 1st and 2nd UPR cycle reviews and submit a complete analysis of the 8 countries to WHO by early March 2017. This analysis will:

- compare the recommendations made to each country during the first and second reviews (e.g. number of health recommendations, health topics, and type of recommendation).
- compare the recommendations for each cycle with: (i) the WHO’s country cooperation strategy; (ii) information submitted to the UPR working group (country report, compilation of stakeholder information) (iii) global health priorities. It may also be useful to consider reports on the countries from other stakeholders, such as the Government itself or NGOs.
- Take note of, and analyse, any patterns as regards accepted recommendations.
- Assess the percentage of recommendations made during the first cycle review that have been implemented by the time of the second cycle review, and any patterns in terms of which recommendations are implemented (e.g.
general or specific recommendations, recommendations on issues that may be understood as safe or controversial in the particular country context).

- Attempt to ascertain whether it is more helpful to have general or specific recommendations.³
- Ascertain whether recommendations focus on less or more controversial issues.

The research will include a desk review of documents relating to the report as well as, where possible, key stakeholder interviews for example with WHO country office focal points, and possibly with staff from other UN agencies at HQ level (e.g. OHCHR, UNFPA) as well as other organisations (Center for Economic and Social Rights, and Univeral Rights Group) working on UPR issues.

**Year 2 Phase 2 (April-June 2016)**

The Clinic will draft its final 25 page report for GER/WHO plus, in addition, recommendations based on the findings from above. The report may also make reference to the findings of other reviews of the UPR (e.g. those by CESR, URG and UNFPA). The report will provide:

a) An overview of the content of the right to health  
b) Synopsis of UPR’s 1\textsuperscript{st} Cycle health recommendations – global, regional trends;  
c) Synopsis of evolution between 1\textsuperscript{st} and 2\textsuperscript{nd} Cycle health recommendations;  
d) Synopsis of the degree of synergy between the UPR WG recommendations and national health priorities  
e) Recommendations including (i) identify strategic entry points for WHO staff (in HQ and/or country offices) to engage with the UPR process at the global and national level; (ii) proposed recommendations for how to better frame health recommendations, for consideration in the guidance provided to states under review (iii) for developing guidance and providing illustrative examples for the Working Group members and Secretariat of the UPR on how to formulate clear and actionable recommendations and how to use and reference appropriate WHO and other UN guidance and resources that reflect a right to health d) Checklist or other method to guide a more systematic analysis, assessment and prioritization of health-related rights issues, that should be of use to all actors.  
f) Provide a list of relevant resources, in consultation with WHO.

The report should include references to how these recommendations will facilitate accountability for implementation of these recommendations and how such a change would affect WHO’s future collaboration project with the mechanism. The report may include annexes.

³ The issue of usefulness and measurability could also be considered – see pp. 30-31 of the URG stick or twist publication
Contact Rebekah Thomas (thomasre@who.int) for documents on WHO's Gender, Equity and Rights Team.

Annex I: Sources and related materials

**Guidance**

OHCHR *Practical Guide for civil society*

OHCHR *Human Rights Bodies, Basic Facts*

OHCHR *General Guidelines for the preparation of information under the Universal Periodic Review*

OHCHR *Information and guidelines for relevant stakeholders’ written submissions*

OHCHR *Information Note for UN Resident Coordinators, UN Country Teams and other UN entities regarding the Universal Periodic Review mechanism*

UPR Info *A Guide for Recommending States at the UPR*

**Lessons learned**

UPR Info, *Beyond promises: the impact of the UPR on the ground*, 2014

UNFPA *Lessons From the First Cycle of the Universal Periodic Review From commitment to action on sexual and reproductive health and rights*, 2014


Universal Rights Group, *Towards the Third Cycle of the Universal Periodic Review: Stick or Twist* (2016)

**Resources**

WHO *Country Cooperation Strategies*

*Human Rights Council, 30th Session, September 2015, Agenda item 3*: Ways and means, as well as obstacles and challenges and proposals to overcome them, for the enhancement of international cooperation in the United Nations human rights machinery, including the Human Rights Council *(forthcoming to be discussed at 31st Session, March 2016)*