

refugee council of australia

guide



July 2018

ENGAGING WITH UN HUMAN RIGHTS PROCEDURES:

A guide for refugee diaspora communities

This document¹ outlines some of the most effective ways for civil society to draw attention to issues and use the Human Rights Council to regulate the behaviour of states. Tips for diaspora communities have been highlighted for convenience, but any of the following avenues are open to individuals if they are represented by an NGO with ECOSOC status.²

General Sessions of the Human Rights Council

These occur three times a year, in March, June, and September. They are an opportunity for the member states of the Human Rights Council (the Council) to receive reports and discuss human rights issues. The topics discussed follow a loose annual pattern, and you can expect the June session of each year to discuss issues relating to internally displaced persons and migrant rights, among other things. The Council also receives the three-part report of the working bodies on recent Universal Periodic Reviews (described in Part II), and when states make proposals for action in relation to these reports. NGOs may engage with this process in a variety of ways, bearing in mind the following key points:

Accreditation

To participate in the general sessions of the Human Rights Council as a member of civil society, you must be representing an NGO which has consultative status with ECOSOC³, and which has been accredited for that specific session. This involves sending a letter of request to the Human Rights Council Secretariat in advance of the session. Requirements for the letter of request can be found in the Office of the High Commissioner for Human Rights (OHCHR) [Practical guide for NGOs](#).⁴

If a member of a diaspora community wishes to engage with a general session of the Human Rights Council, you must do so as a representative of an NGO with ECOSOC status and accreditation to participate.

Making a written submission

You may wish to make written submissions to the Human Rights Council in relation to one or more agenda items. NGOs with special consultative status through ECOSOC may submit up to 1500 words, and submissions must be received more than two weeks prior to the session, through the online form at www2.ohchr.org/english/bodies/hrcouncil/ngo.htm.

Written submissions, once prepared, may be used as submissions to a variety of other UN human rights bodies, such as the Working Group on the Universal Periodic Review (see Part II), or a Special Rapporteur (see Part III).

Making an oral statement

You may also wish to apply to make an oral submission (i.e. reading a statement aloud during a general session). You will have to select the agenda item in which to make your statement (probably during the Interactive Dialogues with Special Procedures Mandate-Holders), and apply by 2pm on the Friday before that session to make an oral contribution. The form for making that request can be found at <http://www.ohchr.org/EN/HRBodies/HRC/Pages/NGOParticipation.aspx>.

There is no guarantee that you will be given a speaking time slot if you apply for one. If you do receive one, you will need to confirm your registration and the name of the person speaking on your behalf 24 hours before your speaking slot. If your nominated speaker is not from your NGO, you will need to provide written authorisation for the speaker to speak on your behalf. You will also need to provide 25 copies of your oral statement to the Conference Officers half an hour before the commencement of NGO interventions in your agenda item.

1 This document was compiled for the Refugee Council of Australia by Sarah Edwards, ANU College of Law International Law Clinical Program

2 The Refugee Council of Australia has special consultative ECOSOC status and may apply for accreditation in each session. There are other NGOs with offices in Australia that also have ECOSOC status.

3 ECOSOC is the United Nations Economic and Social Council. You can read about it here: <http://www.un.org/en/ecosoc/about/>

4 http://www2.ohchr.org/english/bodies/hrcouncil/docs/HRC-Practical_Guide_NGOs_may2010.pdf

In order to make an oral statement, you must ensure that it is related to the discussion being held during the agenda item you wish to intervene in, and be prepared to state your case in a tight time frame. As a non-state observer to a general session, you will be allotted two minutes of speaking time in an interactive dialogue, or one and a half minutes in a general debate.

Further details on formal participation in the general sessions can be found in the OHCHR [Practical guide for NGOs](#).⁵

Engagement with other attendees

At a general session of the Council, you have the opportunity to organise meetings and discussions with representatives of states. Through these meetings, it is often possible to persuade states to make a statement or recommendation during a general session in accordance with your interests, which may serve to bring greater attention to your issue and increase the pressure on your target government to shift its policies. It is beneficial to have a state on side during the general sessions, because they have far greater capacity for intervention and participation in the sessions, and because their political influence is likely to be greater than that of an NGO.

In order to organise these meetings, you will have to contact the representative of the state you wish to liaise with and request an appointment during the general sessions. If there is a relevant report from a Special Rapporteur or Universal Periodic Review coming up during a general session, it is worth communicating with state representatives prior to that report to request that they use their role in the Council to advocate for your stance.

Be strategic about which states you approach to ensure that their advocacy is effective. To make the best use of your time, it is worth finding states that have close allegiances and trading relationships with your target state. It is also worth following the political situation in those states; you are more likely to get support for refugee rights, for example, amongst states whose governments have rights-based refugee programs.

During the meeting itself, it is worthwhile attending with a copy of a statement that you wish to have read out, or a recommendation to a state that you wish to have endorsed. Given the specific materials, it is possible that the state representative that you have spoken to may wish to present that stance verbatim (i.e. read it out loud), but they are unlikely to create a full statement independently. Ensure that your statement or recommendation is clear and concise, and that it is not so aggressive as to be diplomatically undesirable. The state representative should be able to put forward your meaning without feeling compromised in terms of their own diplomacy.

There are further recommendations for how to engage with states during the Universal Periodic Review in Part II of this guide.

Seeking strategic advice

There are a number of Geneva-based NGOs that may be able to provide strategic advice to those wishing to engage with Human Rights Council procedures:

- International Service for Human Rights (ISHR) - <http://www.ishr.ch/>
- Independent Diplomat - <https://independentdiplomat.org>
- Franciscans International - <https://franciscansinternational.org>
- Edmund Rice International - <http://www.edmundriceinternational.org>

Members of diaspora communities may benefit from the support and advice of a Geneva-based NGO that is familiar with the Human Rights Council processes and can help in securing appointments with state representatives during general sessions, and in ensuring that your submissions are suitable for the forum of the Human Rights Council.

The Universal Periodic Review

Every state party to the United Nations undergoes a human rights review roughly every four years, known as the Universal Periodic Review (UPR). During these reviews, a Working Group will investigate the state of human rights in the country under review.

Civil society may participate in these reviews by submitting reports, and by holding governments accountable during the interim periods in between reviews. Below are some tips for maximising the effectiveness of your engagement in the UPR process.

⁵ http://www2.ohchr.org/english/bodies/hrcouncil/docs/HRC-Practical_Guide_NGOs_may2010.pdf

Australia is next scheduled for UPR in October-November 2020. A full schedule of all members' UPRs can be found at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/CyclesUPR.aspx>.

Coalition forming

It is a good idea for NGOs to form coalitions for their engagement with the UPR, as it provides greater consistency throughout the recommendations made, and adds credibility to the claims presented. A cohesive NGO coalition will be able to present the human rights issues affecting their country in order of priority, without distracting from each other's focus.

Diaspora communities may benefit from the support and sponsorship of an NGO in order to ensure that your claims have the benefit of an NGO or NGOs established credibility. You may also seek to join an existing NGO coalition and ask that the issues you would like to see addressed is included as part of the coalition's recommendations.

Drafting recommendations

It is particularly important during your engagement with other states at the Interactive Dialogue (during the general session) that recommendations be drafted carefully. It is important to make your proposed recommendations specific, practical, and directed, outlining actual policy changes rather than calling for vague commitments. It is important to take into account the local and national situation of your target country, so that the recommendations made to the government are immediately practicable and are difficult to dismiss on the grounds of irrelevance or impracticality.

If your proposed recommendation has the backing of another UN mechanism behind it, it is more likely that a state will be willing to adopt it. You can find a full list of Treaty Bodies and Special Mandate holders and access their reports by following the links found at <http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>, or as documents submitted during general sessions (<http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Pages/RegularSessions.aspx>). (See Part III of this guide for more details on engagement with special mandate holders.)

Each of the above human rights mechanisms and bodies are also open to receiving submissions in their own right. It may be practical to prepare a single report which can be submitted to the UPR investigators, as well as to the relevant treaty bodies and special mandate holders, with minimal changes to the structure. Again, these reports and submissions tend to be more influential when issued with the support of an NGO.

Influencing National UPR Reports

UPR country reports cannot be concluded without consultation with NGOs, which gives you an opportunity to ensure that all relevant government departments are engaged with the process, by contacting them directly during the drafting of the report to commence consultation. This might include (in Australia) the Department of Home Affairs, the Department of Foreign Affairs and Trade, the Attorney-General's Department, and other government departments and agencies as are appropriate to your specific task.

Some governments make public commitments to policy changes even before the interactive dialogue of the UPR takes place. This is an ideal outcome, as it is useful for encouraging later implementation of those changes, and gives a diplomatic impetus to the government to follow through on its word. It is worth highlighting the political advantages of appearing to be proactive about reform during the interactive dialogue, in order to encourage an early commitment to change.

Stakeholder Summary

This is the most direct way for civil society to formally participate in the construction of a UPR report. Again, it is recommended to form a coalition with other interested NGOs. The final decision as to which issues to include in the report and to raise at the interactive dialogue falls to the UPR Working Group, and so conflicting priorities between NGOs will distract from the real issues at hand.

Try to agree on a concise, structured list of the most pressing human rights issues in the eyes of your coalition. Ensure that your final contribution brings the most attention to the issues that relate to your proposed recommendation, and that your lobbying will be aiding.

Interactive Dialogues

This is where other states make recommendations to the country under review based on the information provided by the Working Group. Only states may make recommendations at this stage, so it is important to have prior meetings with the representatives of influential states to ask that your proposed recommendations are made. These can be organised to take place during the general session.

Recommendations about which states to engage with and how to prepare your proposed recommendations prior to meeting with representatives are contained in Part I of this guide.

There is no guarantee that the state under review will accept or adopt any of the recommendations made to it. Often, though, even the recommendations which are rejected will be publically explained by the state in question, which at least brings media and diplomatic attention to the issue. If the state under review rejects a recommendation, this can be used in media advocacy as an example of the state's efforts to avoid its human rights obligations.

If the state under review is not Australia, you may wish to use your status as an Australian NGO to lobby the Australian government to make a recommendation during the Interactive Dialogues. You are more likely to influence the Australian government than foreign states, although this does depend on whether you have strong and demonstrable connection to the state under review.

If you are representing a diaspora community, you should pursue the most strategically influential states as well as, or instead of, Australia, to ask for your recommendations or concerns to be taken up. A diaspora community will always have a demonstrable link to the target country.

Intervals between reviews

It is important to maximise your role in the intervals between UPRs, because the UPR relies largely on local NGOs to uphold the accountability of states to follow through on their commitments with regard to their recommendations. If a state is not delivering on its promises, it is important to seek media attention, and ensure that the status of human rights in the country is widely known.

Engaging with Special Rapporteurs and Working Groups

Special Rapporteur is a title given to individuals working on behalf of various regional and international organisations who have specific obligations to investigate, monitor and recommend solutions to specific human rights problems. Special Rapporteurs and Working Groups (known as "special mandate holders") will be a helpful way to bring attention to pressing issues in between Universal Periodic Reviews of your country.

A full list of special mandate holders can be found at http://www.ohchr.org/Documents/HRBodies/SP/VisualDirectoryNovember2017_en.pdf. Some which may be relevant to concerns that refugee diasporas wish to raise include:

- the Working Group on arbitrary detention⁶
- the Working Group on enforced or involuntary disappearances⁷
- Special Rapporteur on extrajudicial, summary, or arbitrary executions⁸
- Special rapporteur on the human rights of internally displaced persons⁹
- Special Rapporteur on the human rights of migrants¹⁰
- Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment¹¹

You are able to make a submission to a special mandate holder about a specific violation of human rights that is relevant to their mandate. The violation may have already occurred, be ongoing, or be likely to occur in the future. The special mandate holder is then able to start communications with the relevant government in the form of a letter, which will include a request for follow-up action from the state in order to address the human rights violation. This letter, and any response received, will be presented at the next general session of the Human Rights Council.

Submission requirements

A submission to a special mandate holder must:

- Identify the victims of the alleged violation.
- Identify the perpetrators of the alleged violation.
- This should include not only state actors, but also any information available on other actors involved.
- Identify the person or organisation authoring the submission.
- This will be kept confidential.
- Provide a detailed description of the alleged violation.
- This should include the date, place, and circumstances of the incident.
- Indicate whether the victims do or do not consent to being identified in either;
- Communications to the state, international organisations, businesses, security companies, and militaries, or;
- A report to the Human Rights Council.

6 <https://www.ohchr.org/EN/Issues/Detention/Pages/WGADIndex.aspx>

7 <https://www.ohchr.org/EN/Issues/Disappearances/Pages/DisappearancesIndex.aspx>

8 <https://www.ohchr.org/EN/Issues/Executions/Pages/SRExecutionsIndex.aspx>

9 <https://www.ohchr.org/EN/Issues/IDPersons/Pages/IDPersonsIndex.aspx>

10 <https://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/SRMigrantsIndex.aspx>

11 <https://www.ohchr.org/EN/Issues/Torture/SRTorture/Pages/SRTortureIndex.aspx>

There is a template for submissions in the form of an online questionnaire at <https://spsubmission.ohchr.org/>. Submissions may also be written as a letter or short report format, as long as they contain all of the above information, and can be submitted either via email to urgent-action@ohchr.org, or by post to the offices of the OHCHR.

Further details on how to make a submission are available at <http://www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx>.

Increasing the probability of action on your submission

Submissions may be made to special mandate holders by anyone, whether they be an NGO or an individual, but the decision on whether to act on the submission will be based in part upon the reliability and credibility of the source. The sources of the information relied upon in the description of the incident must not be merely media reports, and so it is helpful to have some tangible connection to the incident reported on.

In the case of diaspora communities, it could be helpful to have an organisation such as Refugee Council of Australia, Human Rights Law Centre, Amnesty International, etc. make the submission, using personal accounts as evidence, in order to lend the weight of the established credibility of the NGO to the submission.

OHCHR Complaint mechanism

The OHCHR (Office of the High Commissioner for Human Rights) also allows for the possibility of submitting a formal complaint against a state for failing to meet its human rights obligations. This type of complaint will go directly to the OHCHR (rather than passing by a special mandate holder). This procedure is confidential (i.e. the complaints are not brought to the general session for discussion, nor published in any other way), as is any response received from the state. The OHCHR endeavours that, in principle, complaints which are submitted under this procedure and which are found to be admissible will be investigated within 24 months of first receiving the complaint.

This is not considered to be the most effective way to pursue human rights goals. If you wish to use this avenue to make a complaint against a state, it is recommended that you also use other avenues to bring media attention to the issue, and directly lobby the government in question.

The complaint procedure mechanism cannot take up an issue that is already being dealt with by a treaty body or a special mandate holder, and it is recommended to utilise those methods by preference, as they are more efficient and will bring more attention to your issues.

Further details on how to issue a complaint can be found at <http://www.ohchr.org/EN/HRBodies/HRC/ComplaintProcedure/Pages/HRCComplaintProcedureIndex.aspx>.

Useful links and information about the Human Rights Council

International Service for Human Rights (ISHR): UN Human Rights Council

<https://www.ishr.ch/news/un-human-rights-council>

Office of the High Commissioner for Human Rights (OHCHR): Human Rights by Country

<https://www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx>

OHCHR: Universal Periodic Review

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

OHCHR: United Nations Human Rights Council: A Practical Guide for NGO participants

http://www2.ohchr.org/english/bodies/hrcouncil/docs/HRC-Practical_Guide_NGOs_may2010.pdf



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