



Libertad y Orden

MISION PERMANENTE DE COLOMBIA
ANTE LA OFICINA DE LAS NACIONES UNIDAS
Y LOS ORGANISMOS INTERNACIONALES

MPC-1462

The Permanent Mission of Colombia to the United Nations in Geneva, presents its compliments to the Office of the President of the Human Rights Council, and has the honor of enclosing a " Non Paper" on the UPR mechanism, as a contribution of Colombia to the Review Process of the Human Rights Council.

This non paper is presented by Colombia on the occasion of the first session of the Open Ended Intergovernmental Working Group on the Review of the Human Rights Council to be held on October 25th to 29, 2010.

The Permanent Mission of Colombia avails it self of this opportunity to renew to the Office of the President of the Human Rights Council the assurances of its highest consideration.

Geneva, October 15th 2010

To the
**OFFICE OF THE PRESIDENT
OF THE HUMAN RIGHTS COUNCIL**
Geneva





Libertad y Orden

MISION PERMANENTE DE COLOMBIA
ANTE LA OFICINA DE LAS NACIONES UNIDAS
Y LOS ORGANISMOS INTERNACIONALES

NON PAPER

REVIEW PROCESS OF THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW UPR

FOLLOW-UP TO UPR FIRST ROUND AND COMMENTS REGARDING IMPLEMENTATION OF THE SECOND ROUND

This non paper is presented by Colombia on the occasion of the first session of the Open Ended Intergovernmental Working Group on the Review of the Human Rights Council to be held on October 25th to 29, 2010.

The text comprises comments and suggested initiatives on issues related to the UPR first round as well as to the UPR implementation. It also refers to the development of the UPR second round as an important part of the agenda of the review. All these issues are raised under a constructive spirit and as a contribution to the discussions to be undertaken by the Working Group.

The Universal Periodic Review has become the most innovative and successful mechanism of the Human Rights Council, creating new opportunities for interaction between the Human Rights Council and States and, at the same time, providing States the chance to strengthen their institutions and to foster efforts to improve the human rights situation at the national level.

During the review process it is very important to preserve the principles and essential characteristics that have made the UPR a useful practical mechanism, among them, the principles of universality, objectivity and non-selectivity.

The UPR is not perfect, but it can certainly improve as States are increasingly taking advantage of the voluntary nature of the mechanism to drive the political will required to implement the recommendations and commitments arising from the exercise.

Although the voluntary nature of the UPR has been criticized, diminishing this aspect, or removing it to turn the exercise into a mechanism of a more technical nature, carried out by experts in a similar way of the work undertaken by the treaty bodies, or promoting attempts to give a mandatory character to UPR recommendations, could undermine the universality of the process.

I- TIME DEVOTED TO THE UPR AND LIST OF SPEAKERS



Libertad y Orden

MISION PERMANENTE DE COLOMBIA
ANTE LA OFICINA DE LAS NACIONES UNIDAS
Y LOS ORGANISMOS INTERNACIONALES

Several proposals have been made on this subject. Colombia advocates seeking a solution that allows more time for the exercise to be carried out, the ideal being to allow one day per country. However, given the limitations, to set the minimum time in the work group to 4 hours is an alternative that could be considered. It is however important to ensure that the State under review is given enough time to answer the questions and comments raised.

Regarding the problems with the list of speakers, several options have also been suggested already and, although none of them fully satisfy everyone, a workable solution could be derived from them to be adopted in the context of the review, in order to establish a procedure that is clear and transparent.

II- MODALITIES FOR THE SECOND ROUND OF THE UPR

- **Order of presentation.**

The second round of the UPR should reflect the fact that it necessarily implies a review of implementation of the outcomes of the first cycle. Accordingly, the established order of presentation by States decided during the first round by drawing lots should be retained.

- **Documentation**

- a) General guidelines**

The many forms in which reports were presented during the first round provide us with a large amount of information which should be used to identify the best guidelines and practices for presenting UPR reports. The Secretariat could prepare a report recommending aspects to be taken into account in order to update and better reflect the spirit of the general guidelines contained in Decision 6/102.

- b) Content**

Reports presented by States under review and those presented by OHCHR in accordance with the institutional building package should devote their substantive part to reporting on the state of implementation as well as on progress in the fulfillment of accepted recommendations and voluntary commitments. This should include an assessment of achievements and challenges encountered during implementation.



Libertad y Orden

MISION PERMANENTE DE COLOMBIA
ANTE LA OFICINA DE LAS NACIONES UNIDAS
Y LOS ORGANISMOS INTERNACIONALES

- **Role of the Troikas**

A number of different proposals has been made in the line of strengthening the role of the Troikas. On this issue, while States must retain the discretionary ability to say whether or not they wish to accept a recommendation and/or to undertake voluntary commitments, the members of the Troika, with the technical assistance of the Secretariat, should have the capacity to give an opinion, based on the international instruments of which the State under review is a party, in the case that a question or recommendation is not in conformity with the spirit of the exercise.

To adopt the report, the Troikas, with the full participation of the State concerned and the technical assistance of the High Commissioner's Office, should highlight at the end of the document the best practices, achievements and advances to be noted, the specific areas in which the State concerned needs to get or improve technical cooperation, and the issues and challenges that remain outstanding.

- **Formulation of questions and recommendations**

Questions and recommendations formulated during the UPR have had many different formats, from praises at one extreme to excessive criticism and confrontation at the other.

The great number of recommendations and questions already accumulated from the first round should allow the identification of methodologies that encourage the submission of questions and recommendations in a constructive spirit, avoiding extremes and making them action oriented, in order to foster concrete improvements in the human rights situation of the country under review.

The Secretariat could prepare some general guidelines for submitting questions and recommendations, with a focus on practical suggestions. At the same time, it is worth to consider the possibility of limiting the number of questions and recommendations that a delegation can make to a reasonable maximum number of three questions and three recommendations. It is unreasonable for the time allocated to speakers to be used as a competition of who can put the major number of questions and recommendations in the shortest possible time.



Libertad y Orden
MISION PERMANENTE DE COLOMBIA
ANTE LA OFICINA DE LAS NACIONES UNIDAS
Y LOS ORGANISMOS INTERNACIONALES

- **Follow-up to the UPR**

Taking in to account that the UPR is a work in process, Item 6, general debate, should be used to motivate States to report regularly, on a voluntary basis, about implementation of UPR recommendations and voluntary commitments.

In this regard, during the second round, States that have marked a year after the adoption of the report could be invited to present an update of actions taken to advance implementation in a five minute intervention to the Council.

III- THE UPR AND THE NEED TO REFLECT THE LEVEL OF COOPERATION BETWEEN STATES AND THE U.N. HUMAN RIGHTS SYSTEM

Due to its universal and complementary nature, the UPR can, as mentioned, be an important tool for reflecting the degree of commitment to and progress by States in human rights. This approach would also give visibility to the impact that the human rights system is having in the field as well as provides a way to assess its capacity to cooperate with States.

- **Technical cooperation and capacity building**

Reports produced during the second phase of the UPR should include a paragraph reflecting the impact of cooperation and technical assistance so that the State can make progress in implementing the UPR.

This information would allow the State under review, the Office of the High Commissioner, the special procedures and the Council to determine how to improve the capabilities of the system most effectively in terms of cooperation.

THE UPR AND RECOGNITION OF PROGRESS AND ACHIEVEMENTS IN HUMAN RIGHTS

The System should have the capacity to identify not only problems, objectives and challenges, but also achievements, advances and good practices in order to further its development and to motivate States, and civil society organizations to continue making effective progress in improving the human rights situation on the ground.

Recognition of these achievements would also have the effect of sending a message to the public opinion that the System can indeed operate and have a practical and positive effect in defending and promoting human rights.



Libertad y Orden

MISION PERMANENTE DE COLOMBIA
ANTE LA OFICINA DE LAS NACIONES UNIDAS
Y LOS ORGANISMOS INTERNACIONALES

- **Information and exchange on good practices.**

The information gathered in the first round of the UPR contains a large number of good practices that have been successful in several countries.

As it has been highlighted in many occasions, , such good practices could be grouped by subject in a compilation that serves as a source of information to be used by States, the Human Rights System and civil society organizations , as a tool for the effective implementation of public policies in the field of human rights.

Geneva, October 15, 2010