

UPR process – UN mechanism & Human Rights

---- an experience of MASUM





UNO failure of League of Nations, 1945



INTERNATIONAL LAW OF HR

- HR prior to UN
- UN concern with HR
- UDHR 10/12/1948
- ICCPR & ICESCR 1966
- Individual & collective rights
- Universality & indivisibility of HR
- Asian values (north vs south)



International Law at UN

- Binding upon states
- state is the “main actor” or “subject”
- **State = a permanent population; defined territory; a government & capacity to enter into relation with other states**
- no real executive power (SC)
- duty of non intervention (Iraq)
- supreme political authority within its territory
- Equality of states (Veto)
- Treaties are source of law





International Law

- International agreements
- UN Treaties
- UN Conventions
- UN Covenants
- Instruments
- Pacts
- Protocols



Treaties > **bilateral** OR **multilateral**

- Customary law
- Obligatory bindings
- State practice
- Similar to Indigenous customary law
- UDHR, not binding
- Peaceful settlement
- ICJ >> ICC



Major HR instruments at UN

- CERD 1965
- ICCPR 1966
- ICESCR 1966
- CEDAW 1979
- CAT 1984
- CRC 1990
- & many others



UNITED NATIONS

General
Assembly

Security
Council

ECOSOC

Human
Rights
Council

**Secretary
General**



```
graph TD; SG[Secretary General] --- L1[ ]; L1 --- S[Secretariat]; L1 --- C[Committees]; L1 --- WG[Working Groups];
```

Secretariat

Committees

**Working
Groups**

Treaty based system

only ratifying states

Implementation Procedures

- State parties to submit Periodic Reports to committee
- Complaints to committee
- NGO interventions
- Shadow report
- Pursuant to its obligation under the treaty >> applying pressure

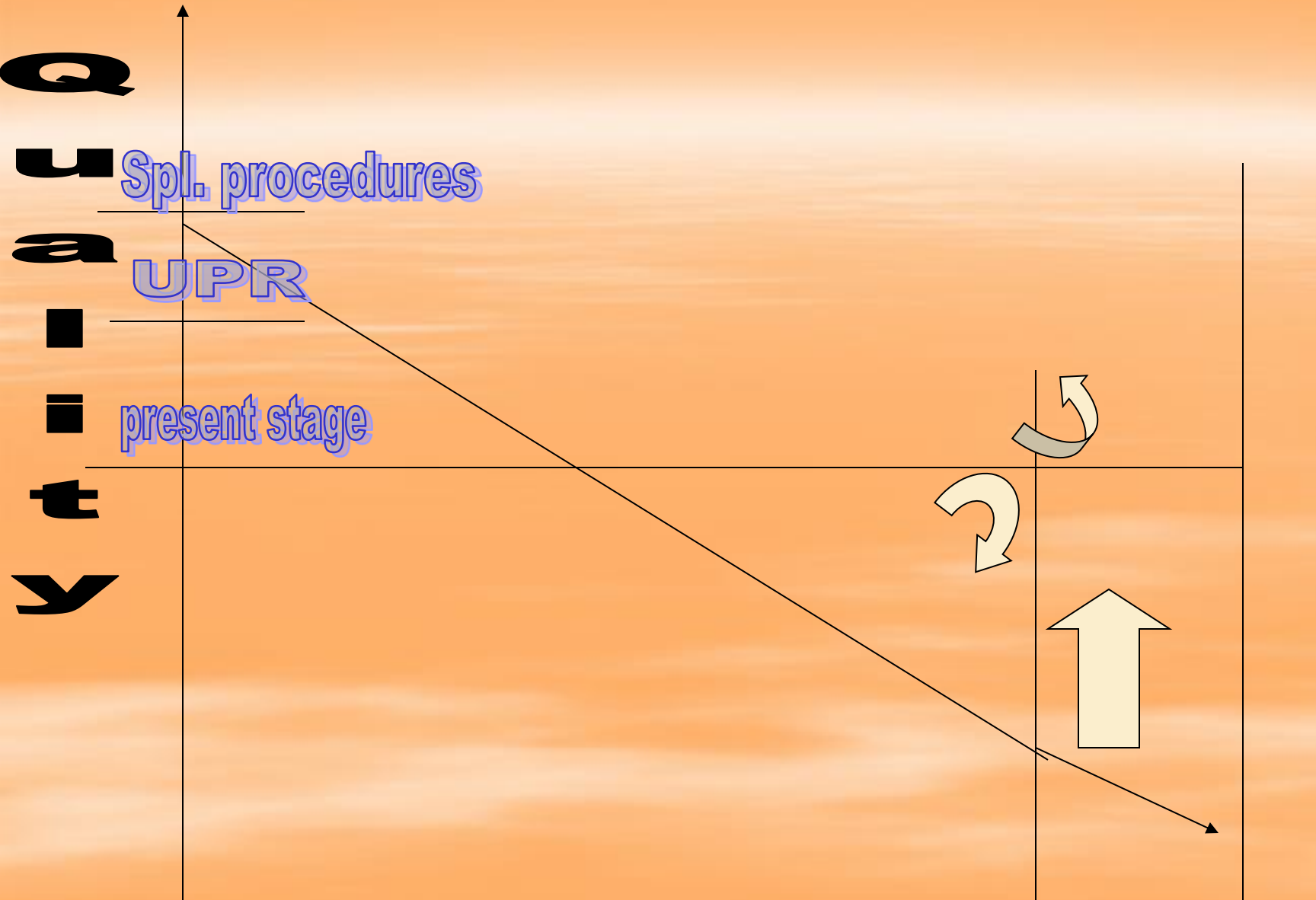


Human Rights Council

Total 47 seats

- Asia – 13
- Africa – 13
- Latin America – 8
- W. Europe - 7
- E. Europe - 6





Negotiations

2 tier



- Open
- Normal



Bad guys
stupid guys

Mafia NGOs

- Reality
- Blackmailing
- Bribe
- Informal

Now
Victims
can speak

Procedure

- Spl procedure
- 1503
- Expert Advice
- Agenda Calendar
- UPR



During the UPR examination of India in 2008, only 18 recommendations were made to India



During the UPR examination on 24th
May 2012, over 80
recommendations were made



India, in 2012 replies - “since January, 1994 until December, 2011, out of 1,429 complaints of human rights excesses received against the personnel of Army and Central Para Military Forces, 1,412 have been investigated and 1,332 found false. In 80 cases, where the complaints were found genuine, stringent punishment has been imposed. 17 cases are under investigation”.



thank you

