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Overview

From 9 to 12 June 2009, the Human Rights Council (the Council) considered and adopted the outcomes on countries reviewed by the UPR Working Group in February 2009 during its 4th session. This report covers the adoption of outcomes on Azerbaijan, Bangladesh, Cameroon, Canada, China, Cuba, Djibouti, Germany, Malaysia, Nigeria, Russian Federation, Saudi Arabia, and Senegal.

On 12 June, the Council held a general debate on the UPR. The focus was on the recurrent problems with the list of speakers for States, translation of documents, and the general functioning of the UPR process to date. Some concerns were expressed about a perceived political manipulation of the review process in some instances. The issue of NGO participation in the process was also raised by many as concerns had arisen during the review of particular States about the role of government sponsored NGOs. Cuba made strongly critical comments about international NGOs, seemingly in response to comments by several NGOs during the adoption of the UPR outcome on Cuba.

Adoption of reports

Azerbaijan

The Deputy Minister of Foreign Affairs, Mr Khalaf Khalafov, underscored that the UPR mechanism is of great importance for Azerbaijan and that ‘constructive recommendations’ made by States would contribute to the further promotion of human rights. He stressed that Azerbaijan accepted most of the recommendations in a variety of areas such as violence against women, gender equality, domestic violence, corporal punishment, children rights including sexual violence and child trafficking, rights of migrant workers, religious tolerance, and relating to the conditions of detention centres and prisons. Mr Khalafov outlined in detail policy initiatives and new laws that were introduced to strengthen and promote human rights.¹ Azerbaijan disagreed with the critique concerning physical violence against the media. According to Azerbaijan, these allegations are false. It claimed that only people who commit crimes face charges and everyone is treated equally before the law. Mr Khalafov argued further that foreign radio stations are not banned, but licences for foreign broadcasters are suspended to promote national mass media. Mr Khalafov also refused claims that NGOs face impediments to their work, and argued that the situation for human right defenders has significantly improved. Moreover, Azerbaijan rejected the recommendation made by Liechtenstein to accede to the Rome Statute of the International Criminal Court. In the interactive dialogue with the UPR working group Azerbaijan left all 32 recommendations pending. It provided a detailed written response outlining which recommendations it accepted and which ones it rejected and the reasons for the rejections.²

Comments by member and observer States

All States that took the floor welcomed Azerbaijan’s efforts to strengthen the protection and promotion of human rights and commended Azerbaijan’s cooperative spirit in the UPR process.³ It was particularly welcomed that Azerbaijan said to have accepted 80 percent of the recommendations. States in addition highlighted improvements in the areas of education, poverty reduction, domestic violence religious tolerance, children’s rights, gender equality, the rule of law, rights of migrants, internally displaced persons, refugees, and health.

General comments by other stakeholders

In contrast to the purely laudatory statements by States, NGOs did not only applaud the steps taken and achievements reached, but instead highlighted remaining challenges. Human Rights Watch welcomed the standing invitation to special procedures but pointed to the continued harassment, arrests and torture of human rights defenders. It also stated that the situation regarding freedom for the media had deteriorated, and urged Azerbaijan to release all journalists detained on politically motivated grounds. The Federation for Women and Family Planning expressed concern at the incidents of sexual harassment in Azerbaijan. It stipulated that Azerbaijan undertakes research on the issue and develops its policies accordingly. It recommended that Azerbaijan introduce appropriate mechanisms for women to be able to report rape cases, including the implementation of public

¹ Laws and initiatives in the following areas: the right to work, right to freedom of religion the rights of the child, homelessness, trafficking, internally displaced persons, and poverty.

² A/HRC/11/20/Add.1.

³ United Arab Emirates, Algeria, Qatar, Uzbekistan, Pakistan, The Russian Federation, Saudi Arabia, Egypt, China, Bahrain, Armenia and the Czech Republic, on behalf of the European Union, were not able to make their statements due to time constraints.

awareness programmes, the provision of training for the police force, and strong measures against corruption in the police force. Furthermore, it suggested that the Government conducts public awareness programmes on gender roles and demanded that harassment of transgender people should be punished.

At the end of the dialogue, Mr Khalafov stated that he valued all contributions and thanked States for the support expressed. He also appreciated the contributions of NGOs and claimed that Azerbaijan would remain open to dialogue with States and civil society. Azerbaijan pledged that it would take the recommendation of the UPR into account. Particular focus will be given to the recommendations related to improve gender equality, rights of the child, and the situation of refugees and IDPs.

Bangladesh

Charge d’Affaires of the Permanent Mission of Bangladesh to the UN offices in Geneva, Mr Mustafizur Rahman provided additional details on the responses of the government, which are also contained in an addendum to the UPR report of Bangladesh. In his short presentation, he thanked the Working Group for the helpful interactive dialogue and expressed appreciation for the Council’s positive recognition of the efforts made by Bangladesh to ensure the promotion and protection of the human rights of its citizens. He highlighted the State’s acceptance of almost all recommendations made, except for where there was ‘conflict with the national constitution and legal provisions’. In particular, Bangladesh rejected recommendations in relation to the death penalty and on reforming its family code.⁴

In relation to recommendations aiming at the ratification of the 1951 Refugee Convention, Bangladesh stated that although it is not a party to the Convention, the Government is regularly reviewing this decision.

Comments by member and observer States

Most of the States that were able to take the floor congratulated Bangladesh for its efforts, particularly those towards the eradication of poverty and the promotion of women’s human rights.⁵ Egypt and Algeria supported Bangladesh for ‘upholding the implementation of national laws and legislation in accordance with universally agreed human rights standards, especially in relation to the death penalty’ an almost standard recommendation understood to encourage States to not change their stance in relation to the death penalty and other controversial issues.

General comments by other stakeholders

Five NGOs took the floor during the dialogue and expressed different concerns compared with the comments made by the States.⁶ The Asian Forum for Human Rights and Development (Forum Asia) focused on extra judicial executions and violence against women. The numerous cases of corruption and the need to address the culture of impunity, recognition of the right to sexual orientation which is still absent, were other areas of concern communicated by stakeholders. A Bangladeshi human rights defender, speaking on behalf of Action Canada for Population and Development, asked the Government to address cases of violence against people in same sex relationships through recognition of the right to sexual orientation.

Mr Rahman concluded by appreciating the participation of civil society although he claimed that some of the issues raised had been already been covered in the replies and interactive dialogue. Quite obviously in an attempt to dismiss the points raised by a human rights defender from Bangladesh, he remarked that he ‘would be have

⁴ A/HRC/11/18/Add.1.

⁵ Pakistan, Vietnam, Qatar, Cuba, Belarus, Bahrain, China, Algeria, Egypt, Saudi Arabia, UAE and Kazakhstan (took the floor). Malaysia, Indonesia, Canada, Morocco, Nigeria, Kuwait, USA, Bhutan, Sweden, Chad, Tunisia, Syrian Arab Republic, Uzbekistan (tried to speak).

⁶ Asian Forum for Human rights and Development, National Legal Resource Centre, Action Canada for Population and Development, International Work Group for Indigenous Affairs and the International Human rights Association of American minorities.

been happy to hear from more national NGOs on the outcome of their review’ rather than ‘representatives that have been hired by other NGOs to promote their agendas’. He claimed they would be ‘more knowledgeable on what is happening on ground’. He encouraged the Human Rights Council to facilitate the participation of ‘mainstream national NGOs’.

Cameroon

Mr Joseph Dion Ngute, Deputy Minister in the Ministry of Foreign Affairs of Cameroon, presented the country’s views on the UPR report.⁷ He reiterated Cameroon’s determination to further work for the interest and advancement of human rights in the country. He stated that the UPR mechanism represented a ‘perfect translation’ of Cameroon’s vision of the Council, and was guided by a spirit of objectivity, cooperation and constructive dialogue. Of the 54 recommendations, Cameroon accepted 41, rejected 11, and decided to continue the examination of two. A comprehensive response to the recommendations was made available in an addendum to the report of the Working Group.⁸

Mr Ngute highlighted the rejection of recommendations on the decriminalisation of homosexuality. Although claiming that homosexuals are not deprived of any rights, Mr Ngute underscored that homosexuality is not considered a cultural value admitted by Cameroon society, and that the African Charter permits the limitation of rights on the basis of public order or morality.

Cameroon concluded by requesting international cooperation and support in order to succeed in implementing the recommendations to improve its human rights situation.

Comments by member and observer States

Algeria, Belarus, China, Morocco, Senegal, Nigeria, the United States, Djibouti, Burkina Faso and Chad participated in the dialogue on the adoption of the report. All States commended Cameroon on its efforts, noting that its careful consideration and acceptance of most recommendations was evidence of the importance it attached to human rights and to the UPR. The United States, however, highlighted some concerns, as documented in the Working Group report, regarding the independence of the election monitoring body, ELECAM, and the independence of the press. Algeria, Morocco, Senegal, and Djibouti called for assistance to be provided from the international community and technical assistance from the OHCHR to Cameroon.

General comments by other stakeholders

Five NGOs took the floor during the dialogue, recognising the efforts made and encouraging the State to do more.⁹ The Canadian HIV/AIDS Legal Network raised concerns that Cameroon rejected all recommendations concerning the decriminalisation of homosexuality. Franciscans International welcomed the acceptance of recommendations on the rights of children, but emphasised that many challenges remain, in particular many forms of exploitation. The International Federation of ACAT congratulated Cameroon on accelerating reform of the judicial system, underscoring the need for reform to eradicate corruption. It highlighted the necessity to respect the rights of those who are deprived of their liberty and to improve prison conditions. RADDHO also addressed the need for judicial reform and independence of judges, and encouraged Cameroon to respect the freedom and independence of the media.

In its final comments, Cameroon reiterated its commitment to fulfil its human rights obligations. It highlighted that the reform process in different areas in the country was ongoing, and that a lot has been done regarding the

⁷ A/HRC/11/21.

⁸ A/HRC/11/21/Add.1.

⁹ Canadian HIV/AIDS Legal Network, Franciscans International, International Federation of ACAT, Joint Statement Cercle De Recherche Sur Les Droits Et Les Devoirs De La Personne Humaine (CRED), Rencontre Africaine Pour La Defense Des Droits De L’homme (RADDHO).

judiciary, but more still needs to be done. It stated that it will be available to receive comments from all in terms of how to improve its human rights situation, underlining its readiness to cooperate with all UN and regional mechanisms.

Canada

On 9 June 2009, Mr Marius Grinius, the Permanent Representative of Canada to the United Nations Office at Geneva presented his country's views on the outcome of its UPR process.¹⁰ Noting that Canada accepted 32 recommendations, partly accepted 22 and rejected 14, he focused on the voluntary commitments of his country and updated the Council on the latest achievements.¹¹ Among other things, Canada promised to table the UPR outcome in parliament and announced efforts on aboriginal issues including the decision to create the Indian Residential Schools Truth and Reconciliation Commission, assist women victims of domestic violence, tackle poverty and homelessness and fight against racism through the national Action Plan Against Racism. Rejected recommendations addressed mainly the ratification of some core international treaties, lifting of reservations to the *Convention on the Rights of the Child*, racial and religious profiling, and the Durban Review Conference.¹²

Comments by member and observer states

The following States participated in the dialogue on the adoption of the report: Algeria, Cuba, the Russian Federation, Iran, Sweden, the US and Chad. A clear division of opinion appeared between western countries which remained balanced in their statements and other groups which were highly critical. Sweden commended Canada for addressing domestic violence against women though asking them to eliminate corporal punishment. The US applauded Canada for tackling Aboriginal land claims and involving civil society in the follow-up to the UPR process. Algeria criticised Canada for accepting only a small number of recommendations. Some States deplored Canada's boycott of the Durban Review Conference.¹³ Iran depicted a very dark picture of the situation of human rights in Canada highlighting the growing violence against women, discrimination against the Aboriginal and Muslim minority, unjustified barriers to immigration, and the refusal to implement the UN *Declaration on the Rights of Indigenous People*. The latter concern was also shared by Cuba. Finally Algeria asked for more consistency regarding Canada's commitment to international treaties and deplored the rejection of recommendation number 61 on the anti-terrorism law.

General comments by other stakeholders

One national human rights institution and seven NGOs addressed the Council.¹⁴ They mainly focused on the rights of Aboriginal people. The Canadian Human Rights Commission and the International Organization of Indigenous Resource development hoped that the UPR will allow further improvement in that field including the advancement of the dialogue on the UN Declaration the Indigenous People. The Indian Council of South America commended Canada for the creation of the Truth and Reconciliation Commission but called on the country to address unresolved treaty issues involving Aboriginal people. The International Organization of Indigenous Resource Development deplored that 12 out of the 28 rejected recommendations relate to the rights of indigenous people and called for more coherence from a country that has committed to the rights of indigenous people. The Iranian Elite Research Centre spoke of 'alarming living conditions' of indigenous people. It also expressed concern about the

¹⁰ For Canada's views on the recommendations see document A/HRC/11/17/Add.1.

¹¹ The rejected recommendations mainly address the ratification of international conventions, racial profiling, the reservations to the *Convention on the Rights of the Child*, the Durban Review Conference, and the full justiciability of economic, social and cultural rights.

¹² The conventions not yet ratified by Canada are the following: the Optional Protocol to the *Covenant on Economic, Social and Cultural Rights*; the *Convention on the Rights of Persons with Disabilities* and the *Convention on the Protection of the Right of All Migrant Workers and the Members of their Family*.

¹³ Cuba, Russian Federation.

¹⁴ The Charitable Institute for Protecting Social Victims, the Organization for defending Victims of Violence, The Iranian Elite Research Centre, The Indian Council of South America, *Rencontre Africaine pour la Defense des Droits de l'Homme* and the International Organization of Indigenous Resource Development.

increase of Islamophobia while others spoke of excessive police violence and the use of tazers,¹⁵ the refusal of the recommendation related to the anti-terrorist law, the non-attendance to the Durban Review Conference, violence against women, and the ratifications of international conventions including the *Convention on the Rights of All Persons with Disabilities*. Among interesting suggestions, the Canadian Human Rights Commission recommended Canada create a national mechanism to implement and report on its international commitments.

China

Ambassador Li Baodong presented the Government's view on the outcome report of the UPR Working Group. There was no written information circulated in advance of the meeting, despite the fact that many States under review have adopted the best practice of providing written and detailed answers to the recommendations received. Instead, the Ambassador read a statement, which was distributed in the room, leaving little time for States and stakeholders to adjust their comments. He stated that China had accepted all 'feasible recommendations compatible with Chinese reality'. It had set up an interagency task force to implement accepted recommendations. The Ambassador presented China's 'first steps' and a brief overview of the Government's plan to implement the recommendations 'with inputs from a wide range of NGOs'. He went on to highlight the publication of the National Human Rights Action Plan for 2009-2010 in early April, and pledged that China would 'create an enabling environment' for the ratification of the International Covenant on Civil and Political Rights (ICCPR). China further claimed that by 2011 all of its residents would be covered by medical insurance. In relation to recommendations that had been left pending at the Working Group stage, and in particular on the issue of the death penalty China's answers remained elusive. The Ambassador simply stated that the 'legislature is considering deeper reform' but that the current policy is 'based on Chinese realities and supported by public opinion'.

At the time of the Working Group, China already rejected a large number of recommendations. This included recommendations dealing with the protection of human rights defenders, freedom of expression and media freedom, freedom of association, independence of the judiciary, the rights of ethnic minorities, the reform or abolition of re-education-through-labour, and the prohibition of torture. The Government did not provide additional details on any of these already rejected recommendations.

Comments by member and observer States

Unsurprisingly, the following dialogue was an impressive display of support, by the States that usually manage to be placed high on the speaker's list. All comments were complimentary of China's efforts, and some welcomed in particular the constructive approach China took in the UPR and its role in the institution-building process. Sri Lanka, argued that 'the world owes gratitude to the Chinese communist party', including for 'ending the serfdom in the autonomous region of Tibet'. Commenting on the rejection by China of recommendations to respect the fundamental rights of ethnic minorities in Tibet and other Xinjiang, the Ambassador of Sri Lanka also 'welcomed the rejection of recommendations that would lead to separatism in a country so important to world stability'. Cuba encouraged China to 'not despair at the biased news accounts' that would be published about its review under the UPR.

General comments by other stakeholders

The comments by NGOs presented a very mixed picture. Roughly half of the 11 speakers clearly followed the Government's line, as they brought no critical distance to official positions. Several of the other NGOs criticised this fact. Amnesty International highlighted the responsibility of civil society actors to not be complicit with the Government's and it stressed that 'China's manipulation of the civil society contribution seriously undermine the UPR and the credibility of the process'. The Helsinki Foundation for Human Rights expressed its deep concern about the State-managed infiltration of the UPR process by 'governmental NGOs.'

¹⁵ The use of tazers was particularly criticised by the Organization for Defending Victims of Violence.

Apart from the issue of the quality of some NGO contributions, the process of review of China was also called into question. Amnesty International reminded that the UPR could only be effective through a frank discussion and claimed that by rejecting key recommendations, the Government of China has undermined the process. NGOs particularly regretted the rejection of recommendations dealing with publishing of the number of death penalty, the persecution of ethnic minority including Uighurs and Tibetans, and administrative punitive detention,

The situation of ethnic minorities, and China's outright rejection of recommendations aiming at its improvement, was criticised by several stakeholders. Human Rights Watch regretted that the Government refused to engage on all recommendations dealing with the Tibetan areas, dismissing them as 'politicised'. The Society for Threatened Peoples called for access by the international community to consider the situation of 'gross and systematic violations' of human rights in the Tibetan areas.

In its answers, the Ambassador repeated familiar arguments. He claimed that China had ended the serfdom of the people of Tibet. Reacting to the criticism related to the large number of rejected recommendations, the Ambassador claimed some are 'purely political' and therefore 'left no choice for China but rejection', while others were 'not suitable for China's national conditions'.

Cuba

The adoption of the report of Cuba took place on 10 June in an atmosphere of almost total adulation, thanks to the fact that allied States filled the speakers list first, with 25 other States unable to speak. In the same manner, a large number of national NGOs managed the previous day to enter the UN before it was officially open to NGOs in order to inscribe first on the speakers list. These NGOs then proceeded in unison to inform the Council that Cuba 'protects all rights of all its peoples'. This situation forced Human Rights Watch, one of only two critical voices in the adoption process, to protest that Cuba had tried to silence criticism, provoking the Ambassador of Cuba to respond that they were 'mercenaries of the counter-revolution' who had 'come here to do the clowns act', and that Cuba would 'continue victorious'. It was on this outcome that Cuba claimed that the UPR was in fact a 'transparent and objective exercise', and that its efforts to promote and protect were now 'universally recognised'.

The Cuban Ambassador, Mr Fernandez Palacios, opened by regretting that the process of adoption of its UPR report had been beset by 'artificial obstacles of translation', and that they welcomed a current draft resolution to be tabled under Item 6 which will address such problems. He thanked those who had recently re-elected Cuba to the Council as a token of their recognition of Cuba's efforts to promote and protect human rights, and explained that as the presidency of NAM and in its national capacity it had approached the UPR openly, and listened to all contributions. After 20 years of 'unjust manipulation of the Cuban human rights situation', the UPR outcome was important in its objective assessment, which included the condemnation of the 'genocidal policy' of the US' blockade.

As with the UPR review itself, Cuba did not identify any shortcomings in protecting or promoting human rights. It distributed its responses in the room to its 19 outstanding recommendations and again criticised conference services for not having translated the document in time.¹⁶ Cuba only touched upon the content of these responses, asking people to read them in their own time, and instead claimed that its model practice in economic, social and cultural rights was now universally recognised in the midst of a global economic crisis, and it would continue to deepen international solidarity and participation, quoting figures of the amount of Cuban professionals working abroad, particularly in the health sector and in literacy programmes as examples.

Among the elements of its responses that it did reiterate included: that it had overcome the delay in submitting reports to treaty bodies, including recently to the Committees on the Rights of the Child and on the Elimination of Racial Discrimination and will soon submit its report to the Committee against Torture; that it would maintain its 'sovereign right' to issue invitations to special procedures when it saw fit, including most recently to the Special

¹⁶A/HRC/11/22/Add.1.

Rapporteur against torture; and that there is no need for a national human rights commission as various State administrations can handle alleged violations.

Comments by member and observer States

As had been the case with the adoption of the report of the Russian Federation, the States' speakers list was entirely dominated by States who lauded Cuba for its role in the UPR process,¹⁷ and its 'objectivity, impartiality'¹⁸ and 'constructive approach to human rights',¹⁹ while States that may have made more critical comments were pushed further down the list and therefore could not contribute.²⁰ This included a significant number of statements which should have raised points of order as they did not address the outcomes of the UPR in any way, including Sri Lanka's praise of the Cuban Ambassador as 'a field commander in the battle of ideas in the Council, who has fought militantly against the forces of selectivity', and Belarus, which recommended that Cuba continue to play a leading role in fighting 'politicisation and double standards'. Venezuela, Bolivia and Qatar commended Cuba for its efforts in relation to education, sport and health, while Egypt stated that its medical work abroad without conditionality was a symbol of its commitment to international solidarity. Belarus and Bolivia identified the US embargo as a violation of the rights of the Cuban people. Algeria claimed that Cuba's acceptance of 60 recommendations was a record and 'outstripped' developed countries.

General comments by other stakeholders

The stakeholders list was dominated by Cuban NGOs, and two Chinese NGOs, who were entirely approving of Cuba's human rights record, focusing heavily on statistics, including claims that Cubans working abroad have undertaken more than 500 million medical visits and performed 1 million births.²¹ The Women's International Democratic Federation stated that Cuba protects all rights of all its peoples, which included (as addressed by others) the health system, education, the electoral system,²² freedom of trade unions, and a vibrant mass media. Centrist Democratic International and Human Rights Watch²³ were the only two NGOs to raise concerns. The former addressed prison conditions, the holding of political prisoners, and the deterioration of the health of these prisoners. It called on Cuba to immediately release all political prisoners. Human Rights Watch raised concern and regret that Cuba did not explain violations of human rights in the country, including the power of the national assembly over the independence of judges, the holding of over 300 political prisoners for no reason. They regretted Cuba's denial of and the repression of all dissidence, and called for an immediate end to all of the above. It concluded by protesting that Cuba had attempted to silence all criticism in the UPR, but that it had not been successful.

The Cuban Ambassador concluded the consideration of the UPR report by stating that Cuba would continue to improve its system. He thanked the 'majority' of NGOs, but claimed that others were 'the mercenaries of the counter revolution doing the work of the old empire', whom they regretted 'have to come here to do the clowns act', and that 'we will continue victorious'. The report of Cuba was then adopted by consensus.

¹⁷ Pakistan, Venezuela, Qatar, Russian Federation, Bolivia, Uzbekistan, Belarus, Sri Lanka, China, Algeria, Egypt.

¹⁸ Pakistan.

¹⁹ Russian Federation, China.

²⁰ Saudi Arabia, United Arab Emirates, Bahrain, Laos, Nicaragua, Vietnam, Malaysia, Indonesia, Canada, Yemen, Morocco, Iran, Democratic Peoples' Republic of Korea, Nigeria, Kuwait, India, United States, Sweden, Djibouti, Chad, Ecuador, Poland, South Africa, Belgium, Syria.

²¹ Organisation for the Solidarity of Peoples of Asia, Africa and Latin America.

²² Centro de Estudios Sobre le Juventad.

²³ Joint statement with Human Rights First and Federation Internationale des Droits de l'Homme.

Djibouti

On 9 June 2009, Djibouti presented its views on the UPR outcome. At the time of the review in February 2009, Djibouti accepted 37 recommendations, took under consideration eight,²⁴ and rejected recommendations on ensuring trade union freedom; independence of the judiciary; ensuring freedom of expression; and laws governing press bodies; ending intimidation of journalists. In relation to the rejected recommendations, Djibouti explained in its presentation that these recommendations had to be rejected as they did not comply with national laws or with the situation in the country. This argument runs counter to the purpose of the UPR which is to strengthen compliance with international standards which may require national laws or policies be changed.

In the presentation of the country's views, the Ambassador of Djibouti to the UN in Geneva did not specifically provide replies to the eight recommendations that Djibouti had taken under consideration. Switzerland came back to this at the end of the session before the adoption of the outcome requesting a clarification from Djibouti as to its position on these recommendations. Djibouti then simply stated that it had taken note of the remaining recommendations and that it would provide responses 'in due time'.

Djibouti presented a general overview of several measures it has taken to address some of the issues contained in the 'noted recommendations'. It explained that both the Constitution and national laws ensure freedom of expression and that the Government is taking measures to ensure freedom for journalists. Djibouti also commented on the issue of freedom of association and to form trade unions stating that national laws guarantee freedom of association and the International Labour Organisation had concluded that there were no problems for trade unions to operate freely.

Djibouti also outlined other efforts it had made in follow up to the UPR, including a workshop with civil society; drafting of a three year plan for implementation of the outcome; workshop on drafting reports to the treaty bodies with OHCHR; FGM awareness raising and training programme; amending the penal code regarding FGM; and a workshop on the impact of poverty on children. Djibouti has ratified the *Convention on the Elimination of All Forms of Racial Discrimination* and will shortly ratify the *Convention on the Rights of Persons with Disabilities*.

Comments by member and observer States

A relatively large number of States sought to comment on the outcome, although not all of them were able to due to time constraints.

Several States welcomed Djibouti's efforts to advance human rights, in particular in relation to the rights of women and children,²⁵ the right to education,²⁶ and fighting poverty. Algeria welcomed the establishment of a national human rights institution in accordance with the Paris Principles, while Egypt welcomed the strengthening of the judiciary and 'national human rights architecture'. All the States that spoke were overwhelmingly positive in their remarks, with only Nigeria hoping that the human rights record would be 'greatly improved' by the next review, implicitly recognising that there are human rights problems in Djibouti.

Several States also called for technical assistance and support from the international community and OHCHR.²⁷ Senegal called for greater international solidarity and Morocco suggested that the international community should provide technical and financial assistance in particular in relation to legislative reform.

²⁴ These recommendations (some of which were repetitive) concerned: a standing invitation to special procedures; separation of juvenile offenders from adults in prisons; enforcing the law prohibiting female genital mutilation; consider legislation against all forms of violence against children; implement legislation to combat discrimination against girls and women; eliminate imprisonment for the punishment of press offences.

²⁵ Qatar, Algeria.

²⁶ Qatar, Algeria, Senegal.

²⁷ Algeria, Egypt, Morocco, Senegal, Nigeria, Burkina Faso.

General comments by other stakeholders

Six NGOs commented on the outcome and some remarks seemed to conflict with the Government's statement. For example, one NGO highlighted the need for a national action plan for the implementation of the UPR recommendations,²⁸ and another called for an enabling framework for freedom of the press.²⁹ The latter NGO also recommended the adoption of a national programme on women's rights and the ratification of the *Convention on the Protection of All Persons from Enforced Disappearances*. In response at the end of the meeting, the President stated that this was not the place to make recommendations to Djibouti as the outcome report could not accommodate that.

One NGO³⁰ highlighted that the outcome report was not clear on the recommendations rejected by Djibouti as some of the recommendations in the report had not been subdivided.³¹ It also drew attention to what seemed a contradictory position of the State in response to recommendations on imprisonment of press offences.³² In relation to the issue of freedom of association and the right to form trade unions, the NGO stated that these were clear international obligations and that there had been complaints of lack of respect for these rights. One NGO also called on the Government to respect the rights of human rights defenders.

In its closing remarks, Djibouti claimed that there is no persecution of trade unionists in the country, that these allegations were 'myths' and that journalists are working in a safe environment. It stated that it will keep the Council informed of the status of reforms. The report was then adopted.

Germany

On 9 June, Mr Reinhard Schweppe, the Permanent Representative of Germany to the United Nations Office at Geneva presented his country's views on the recommendations issued after Germany's review under the UPR.³³ He stressed Germany's openness to the process, 'demonstrated by the acceptance of 35 recommendations' out of 44. Referring for instance to the ratification of the Optional Protocol to the *Covenant on Economic, Social and Cultural Rights*, he stressed that all recommendations that Germany found difficult to accept relate to issues that are currently subject to an ongoing debate in the country. He was pleased to announce that most recommendations dealing with challenging issues in Germany such as the human rights of migrants, racism and minorities' right were accepted. However, Germany's position on migrant rights and the open display of religious symbols remain unchanged.³⁴ Finally, he recalled that despite their absence at the Durban Review Conference, Germany was committed to the fight against racism and related intolerance.

Noteworthy were the ambiguous answers to recommendations 13 and 38 where Germany stated that it 'essentially accepts' and 'largely accepts' the mentioned recommendations.³⁵

In his final statement, the head of delegation asked for understanding of the situation in Germany with the largest Muslim population in Europe and stated that there is no discrimination against Muslims in the country. Justifying the position of his country on the *Convention on the Protection of the Rights of All Migrant Workers and Members*

²⁸ *Organisation pour la communication en Afrique et de promotion de la coopération économique internationale*.

²⁹ *Rencontre Africaine pour la Défense des Droits de l'Homme*.

³⁰ Arab Commission for Human Rights.

³¹ This applied to recommendations 47 and 54.

³² Recommendation 59e was noted.

³³ For Germany's views on the recommendations, see document A/HRC/11/15/Add.1.

³⁴ Germany explained that it did not see a need to ratify the *Convention on Migrant Workers* as the rights protected therein are already protected in other international instruments. The domestic law banning the wearing of religious clothes would not be repealed as the State seeks to weight the positive and negative freedom of belief against each other and to retain the State's neutrality in questions of beliefs.

³⁵ Amnesty International deplored as well that Germany avoided commenting on recommendation number 38 concerning access to primary health care, education and judicial authorities.

of *Their Families* he replied that what was right twenty years ago still is right today. Finally, announcing his Government's willingness to engage in the future reform of the Council, quoting Kant as a source of inspiration for this very work: 'A constitution should be drafted in a way that even a society of devils is bound to do good'.

Comments by member and observer States

The following States participated in the dialogue on the adoption of the report: Qatar, Algeria, the Russian Federation, Saudi Arabia, Iran, Sweden, the US and Chad. Some States commended Germany for accepting most recommendations.³⁶ More specifically, Saudi Arabia and the US expressed its satisfaction regarding the National Action Plan against Racism noting that discrimination and hostility towards some racial and religious minority groups remain a problem. Qatar, Algeria, Saudi Arabia and Iran were much stronger in their statement expressing concerns regarding the increase of racism and violence against Muslim minorities. Sweden praised the efforts in integration and education but wished that the acceptance of recommendation related to the fight against terrorism would take into account the searches of private computers. Algeria and the Russian Federation referred to the Durban Review Conference hoping that Germany would associate itself to the outcome document.

General comments by other stakeholders

The German Institute for Human Rights hoped that Germany would demonstrate a stronger commitment to the ratifications of core international treaties and only exceptionally reject recommendations in this.³⁷ The seven NGOs³⁸ which then took the floor mainly addressed the following concerns: situation of regular and undocumented migrants; discrimination against Muslim women and the ban on religious clothes; freedom of religion; the non-attendance of Germany to the Durban Review Conference; the rights of transgender persons and reservations to the *Convention on the Rights of the Child*. Amnesty International particularly deplored Germany's refusal to accept the recommendation related to establishing separate courts for cases involving law-enforcement officers. The Canadian HIV/AIDS Legal Network enquired if the reform of the law on transgender registration was conducted in consultation with transgender people and asked for the regulations for to be fully in line with the Yogyakarta Principles on the application of international human rights law to issues of sexual orientation and gender identity. Further information

Jordan

On June 12, 2009 Mr Mutaz Faleh Hyassat, First Secretary at the Permanent Mission of Jordan to the UN Office at Geneva, presented the country's views on the UPR report. Mr Hyassat noted that Jordan had accepted twelve recommendations and that the Government had begun their implementation. On the issue of honour crimes, he underlined that the Penal Code had been amended and the Government had also enacted a new law to amend the Penal Code regarding honour crimes. In relation to the status of women and their rights, Jordan had enacted many laws to promote gender equality. Mr Hyassat informed the Council that the Government of Jordan had also amended the Penal Code to bring the definition of torture in line with the Convention Against Torture. Concerning the recommendation to repeal administrative detention, he explained that these measures were preventive to protect society and assured they were under control.

Comments by member and observer States

Ten States took the floor to comment on the report. The States that spoke were all congratulatory of Jordan and spoke of the country's achievements including its cooperation with and openness during the universal periodic review. The United Arab Emirates and Bahrain welcomed Jordan's efforts to promote the rights of the child

³⁶ Russian Federation, Saudi Arabia and Chad.

³⁷ It referred to the CMW and the OP ICSECR.

³⁸ The Charitable Institute for Protecting Social Victims, the Organization for Defending Victims of Violence, the Iranian Elite Research Centre, the Arab Commission for Human Rights, Amnesty International, the Canadian/HIV/AIDS Legal Network and the World Council of Churches.

through the national plan of action 2004-2013. Algeria was pleased that Jordan had accepted most recommendations of the Working Group and highlighted that the country had also played a pioneering role in the protection of the rights of disabled persons and migrant workers. China noted that the Government of Jordan had established a number of human rights institutions.

Several States welcomed efforts to protect the rights of women, allowing them to participate in decision-making. The United States commended Jordan for the steps taken to promote human rights especially to protect women but it raised concerns with regard to honour crimes and the law on associations passed in 2008. The US also hoped that perpetrators of honour crimes were prosecuted and received sentences that reflected the gravity of their crimes.

General Comments by other stakeholders

Nine NGOs took the floor during the dialogue to make general comments. Many NGOs raised concerns about the systematic practice of torture in detention centers and prisons and regretted that the Government of Jordan had refused the most substantive recommendations such as ensuring the investigation of all allegations of torture and ratifying the Optional Protocol to the Convention Against Torture. The Jordan Centre for Human Rights noted that Jordan had taken a number of steps and needed to do more, such as the amendment of national legislation to reduce the death penalty.

Human Rights Watch drew attention to the fact that Jordan had curtailed its practice of administratively detaining women threatened with violence by family members, and tribal members. It also recommended the Government to abolish prior approval for the holding of public meetings. The Cairo Institute for Human Rights Studies also expressed concerns about the situation of women, the status of their rights, domestic violence and prevalence of honour crimes and urged the Government to develop comprehensive penal legislation to eliminate discrimination and violence against women.

Mr Hyassat in concluding remarks thanked for all the comments made by the representatives of NGOs and he added that the Government of Jordan intended to follow-up with the Human Rights Council on the implementation of the recommendations.

Malaysia

On 12 June 2009 Mr Othman Hashim, Ambassador and Permanent Representative of Malaysia to the UN Office at Geneva, presented the country's views on the UPR report. Mr Hashim highlighted that Malaysia had already begun taking actions to implement the UPR recommendations, such as one related to training for law enforcement officials. In relation to the recommendations on preventive detention legislation, Malaysia had decided to review the Internal Security Act. Mr Hashim underlined that the Government of Malaysia was in the process of amending the Child Act 2001, National Child Policy and a National Child Protection Policy. On the issue of the death penalty, Mr Hashim assured that it was only imposed for the most serious crimes such as drug trafficking and murder.

Comments by member and observer States

12 States took the floor to comment on the draft outcome. The comments by States were exclusively complimentary of Malaysia's efforts. Many States³⁹ thanked the Government of Malaysia for all the measures that had already been implemented to promote and protect human rights. Several States noted that Malaysia had not only accepted almost all recommendations made during the review but had also started implementation through a multi-pronged strategy. The delegation of Viet Nam wished to study and learn from Malaysia's best practices in maintaining social harmony and protecting human rights and fundamental freedoms.

³⁹ United Arab Emirates, Thailand, Egypt, Qatar.

General Comments by other stakeholders

Several NGOs took the floor during the dialogue. The major issues they addressed included illegal detention without even the most basic due process guarantees, discrimination, freedom of religion, freedom of assembly and refugees' rights. The National Human Rights Commission of Malaysia expressed its concerns about the arrest of lawyers who volunteered to defend detained persons and they advised to ratify the *International Covenant on Civil and Political Rights* and the *Convention against Torture*. Amnesty International drew attention to the fact that Malaysia rejected the recommendation on the right to peaceful assembly and recent arrests of up to 160 people. The Asian Forum for Human Rights and Development expressed concern about gross abuses of power by police and other law enforcement agencies and recommended the establishment of an independent commission on police complaints and misconduct. The Islamic Human Rights Commission called on Malaysia to abolish the Internal Security Act used against individuals who were suspected of being an actual or potential threat to the country's national security or public order.

In its final comments, Malaysia, in response to Islamic Human Rights Commission, noted that the Government was going to review the Internal Security Act. However, it stated that on the issue of preventive detention, the Government believed national security laws remained necessary for the protection of public security.

Mauritius

Mr Shree Chekitan Servansing, Ambassador and Permanent Representative of Mauritius to the UN Office at Geneva highlighted the efforts made by Mauritius to ensure the protection of human rights, including a series of measures to ensure that the citizens, irrespective of race, place of origin, political opinions, colour, creed or sex, are able to exercise effectively their civil, political, social and cultural rights. A number of laws have been adopted to further promote human rights, including the Equal Opportunities Act, the HIV and AIDS Act, the Truth and Justice Commission Act, the Employment Relations Act and the Employment Rights Act.

Mauritius highlighted the recommendations that it accepted, including the ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict noting that it was already undertaking efforts to implement it. Mauritius also passed the Combating of Trafficking in Persons Act which is aimed at not only preventing human trafficking and prosecuting traffickers, but also providing protection and assistance to victims of trafficking. Mauritius noted that the eradication of poverty is a Government priority. It also referred to plans to build a new and modern prison to accommodate 750 detainees and alleviate the problem of overcrowding.

However, Mauritius had reservations on some of the recommendations made, such as its decision not to accede to the Additional Protocol relating to the 1951 Convention on the Status of Refugees given its limited resources as a small island developing State. In this context it underlined that the principle of *non-refoulement* is nevertheless observed. With regard to the recommendation to amend the constitutional provisions that negatively affect the status of women, Mauritius pointed out that the Constitution provides that personal laws on issues such as adoption, marriage and divorce are not deemed discriminatory even if they result in different treatment being afforded to different persons on the ground of sex or creed. This provision in the constitution was deemed necessary in view of the fact that Mauritius is a multi-religious, multi-ethnic and multicultural society and that Mauritians of different religions have to be given the freedom to practise their respective religion. The amendment of this provision is not envisaged in the short term.

Comments by member of observer states

Several of the member and observer States that spoke, commended Mauritius for endorsing a majority of the recommendations made during the review. The establishment of a national action plan to promote human rights, the promotion of human rights education particularly among the law enforcement officials, and the efforts to protect the rights of the child were noted by the USA, Morocco, Algeria and India. Mauritius was encouraged to intensify its efforts on the rights of women and ensure the adoption of the new legislation under the proposed sexual offence bill to criminalise marital rape.

General Comments by Stakeholders

The European Region of the International Lesbian and Gay Association welcomed the acceptance of recommendation 4 and the proposed adoption of a sexual offences bill in Mauritius which would decriminalise same sex relationships. Questions on the current status of the bill and time periods before its adoption were also raised.

The Arab Commission for Human rights appreciated the acceptance of a large number of recommendations by Mauritius and requested more detailed information on the State's implementation of recommendations 3, on the Police Complaints Bill and 22 and 23 on violation of the rights of persons in detention and pre-detention centres.

In conclusion, Mr Servansing acknowledged the reactions made during the interactive dialogue, including those of civil society and guaranteed to reflect upon them within the confines of the Constitution of Mauritius. He expressed the unwavering commitment of Mauritius to the rights of its people and extended his appreciation for the fruitful outcome of the UPR session.

Mexico

Mr José Guevara, Chief of the Unit of Human Rights at the Ministry of Interior of Mexico, presented the country's views on the UPR report.⁴⁰ Mr Guevara acknowledged that Mexico faces important challenges in the area of security, especially regarding organised crime, corruption and impunity. Mr Guevara updated the Council on the country's latest achievements, including the initiative for constitutional reform incorporating recognition of human rights contained in international treaties ratified by Mexico; the establishment of different institutions to provide medical attention to victims of sexual violence; the setting up of specialised courts for indigenous people; and Mexico's initiative to reform the federal criminal code to consider offences against journalists as federal offences.

Of the 91 recommendations, Mexico accepted 83 recommendations. Mr Guevara commented upon the recommendation 94.2, 94.5 and 94.7, which Mexico did not accept. The first recommendation concerns the practice of 'arraigo' and Mr Guevara explained that the 2008 constitutional reform already restricts the scope of 'arraigo'. He informed the Council that this is a precautionary measure which only applies to organised crime and is subject to strict legal control. Moreover, 'arraigo' respects the right to fair trial of detainees, prohibits incommunicado, intimidation or torture and therefore complies with international standards. Regarding recommendation 94.5 and 94.7, Mr Guevara explained that the civil legal system prevails over the military justice system, since decisions by military courts and military supreme courts can be appealed in civil courts.

In conclusion, Mr Guevara indicated that Mexico undertook to follow up the recommendations through the Commission on Governmental Policy in Human Rights, which includes representatives of civil society, the Government, the ombudsman system and OHCHR.

Comments by member and observer states

The following States participated in the dialogue on the adoption of the report: Algeria, Egypt, the US, Belgium and Chad. Whereas Algeria, Egypt and Chad commended Mexico for having accepted most recommendations, the US and Belgium were a bit more critical and focused on major challenges that Mexico is facing, such as impunity. The US urged Mexico 'to express government support (...), for journalists as valuable, key witnesses in the struggle against impunity (...)'. Further, the US argued that full investigations of all human rights abuses by military personnel and security forces would also contribute to end impunity. In this regard, Belgium argued that impunity is the 'major obstacle for the smooth functioning of the rule of law' and expressed its regret regarding the Government's decision in 2006 to abolish the special prosecutors' office for political and social movements of the past. The latter was mandated to investigate various allegations of human rights violations during the 1960s and

⁴⁰ For Mexico's views on the recommendations, see document A/HRC/11/27/Add.1.

70s. Further Belgium was ‘surprised’ that enforced disappearances and homicides are being put at the same level as federal crimes and encouraged Mexico to establish a separate mechanism for these investigations to receive the special attention they require.

General comments by other stakeholders

The National Commission on Human Rights of Mexico and ten NGOs⁴¹ commented on the outcome. The National Commission on Human Rights drew attention to some issues that were not taken up by the Working Group, namely the right to a healthy environment and human rights of persons with disabilities. Some NGOs asked the Council not to await the next UPR before following up on the implementation of the outcome and suggested the establishment of a follow up mechanism.⁴² In this regard, the Social Service Agency of the Protestant Church in Germany, while taking note of Mexico’s acceptance of recommendations concerning human rights defenders, highlighted that recent violations against human rights defenders continue as it did for instance in February, two days after the UPR review when two indigenous defenders disappeared.

Human Rights Watch raised the increase in complaints of military abuses and another NGO, Centro de Derechos Humanos Miguel Agustín Pro Juárez, urged the Government to stop ‘militarization of public security’. Regarding this issue, Mr Guevara stressed that Mexico accepted all recommendations made by the National Commission on Human Rights of Mexico. Action Canada for Population and Development pointed out the need for legislative reform to ensure harmonisation of its legislation, a comment that Mr Guevara endorsed.

Among other issues raised by stakeholders were the increasing number of complaints of military abuses,⁴³ violence against women,⁴⁴ the need for comprehensive education on sexuality,⁴⁵ the need to abolish ‘*arraigo*’,⁴⁶ the need to establish a prosecutor’s office to investigate crimes of the past,⁴⁷ restrictions on access to abortion,⁴⁸ and the need to end impunity.⁴⁹

Nigeria

On 11 June 2009 Nigeria presented its views on the outcome of its UPR. Nigeria reserved its position on all of the 32 sets of recommendations at the time of the review. At the adoption of the outcome it accepted 30 of these recommendations while taking note of recommendations 12 and 13. Recommendation 12 addressed the issue of discrimination based on gender and sexual orientation and recommended that Nigeria not adopt a new same sex marriage bill, while recommendation 13 suggested a moratorium on executions with a view to abolishing the death penalty.⁵⁰ In its statement, Nigeria did not comment on the issue of sexual orientation, however it did clarify that it already has in place a ‘self-imposed moratorium on executions’. It further stated that a national committee will undertake a review of the death penalty with a view to determining future Government policy on this issue.

⁴¹ Amnesty International, Human Rights Watch, Action Canada for Population and Development, International Commission of Jurists, Federation for Women and Family Planning, Grupo de Información en Reproducción Elegida, Conectas Direitos Humanos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, Social Service Agency of the Protestant Church in Germany and the Centre for Reproductive Rights.

⁴² Social Service Agency of the Protestant Church in Germany and the International Commission of Jurists.

⁴³ Human Rights Watch.

⁴⁴ Amnesty International and the Centre for Reproductive Rights.

⁴⁵ Federation for Women and Family Planning.

⁴⁶ *Grupo de Información en Reproducción Elegida*.

⁴⁷ Conectas Direitos Humanos.

⁴⁸ Centre for Reproductive Rights.

⁴⁹ Human Rights Watch, Amnesty International, International Commission of Jurists, Federation for Women and Family Planning, Conectas Direitos Humanos, Centre for Reproductive Rights.

⁵⁰ Recommended by the Netherlands, Brazil, Mexico, Slovakia, Italy, Turkey, Sweden, UK, New Zealand, Azerbaijan.

Nigeria explained that it had already begun implementation of several of the recommendations, including though legislative reform, while recognising that some of them would take longer to effect. It noted that it had already signed on to several international treaties, including on migrant workers, enforced disappearances, prevention of genocide and the optional protocol to the *Convention against Torture*.

Nigeria also stated that in relation to minority rights it applies the constitutional ‘Federal Character Principle’ to ensure equal distribution of natural resources and political appointments. It explained that it has taken action to address specific challenges in certain areas, including in the Niger Delta with the establishment of the Ministry for Niger-Delta and granting of amnesties to anyone involved in ‘agitational activities’ there. It also spoke of its efforts to strengthen economic, social and cultural rights through poverty elimination initiatives.

In closing, Nigeria referred to the UPR as the ‘crown jewel’ of the Council, a term until now reserved for the special procedures, which are seen as among the most relevant and effective UN human rights mechanisms. Nigeria stated that the UPR is ‘promising to become an effective mechanism’.

Comments by member and observer States

The majority of States that spoke praised the ‘frank and honest’ dialogue that Nigeria had engaged in with the UPR⁵¹ as well as its clear responses to the recommendations.⁵² China stated that Nigeria had been honest about the challenges it faces. The US was the only one to highlight challenges during the adoption of the report, drawing attention to ‘severe problems’ of torture and abuse of detainees and the need to end impunity.

Pakistan praised Nigeria’s ratification of the optional protocol to the *Convention on the Rights of Persons with Disability*. Algeria encouraged the Government to continue to incorporate CEDAW into domestic law.

China and Pakistan commented on the reform of the judiciary with China suggesting that Nigeria improve its judicial system. Pakistan and the US encouraged Nigeria to review its national human rights institution in accordance with the Paris Principles, with the US underlining the need to ensure the institution’s independence.

Several States encouraged the international community to provide support to Nigeria, including through technical assistance.⁵³

General comments by other stakeholders

Eight NGOs commented on the outcome on Nigeria. Amnesty International welcomed the self-imposed moratorium and called on the Government to formalise it. Interfaith International also called for abolition of the death penalty and expressed concerns about lack of fair trial for some prisoners.

Amnesty International and the Canadian HIV/AIDS Legal Network urged the Government not to adopt the same sex marriage prohibition bill and to repeal laws that discriminate on the basis of gender or sexual orientation. Amnesty International also called for early implementation of the recommendations on discrimination and violence against women.

Conectas Direitos Humanos in a joint statement expressed concerns about the absence of a comprehensive human rights framework, lack of ratification of key treaties, reporting to the treaty bodies, and standing invitation to the special procedures. It highlighted in particular concerns about the right to housing and discriminatory evictions, and the failure of the Government to agree to a visit by the Special Rapporteur on housing. The Arab Commission for Human Rights called for economic, social and cultural rights to be given status as individual rights.

⁵¹ Pakistan, Venezuela, China, Algeria, Saudi Arabia, Bahrain.

⁵² Pakistan, Venezuela, Qatar.

⁵³ Qatar, Algeria, Senegal.

Several NGOs highlighted concerns about the prevalence of extrajudicial executions and torture.⁵⁴ The Arab Commission for Human Rights urged the Government to establish the national preventive mechanism on torture.

Finally, the Arab Commission for Human Rights commented on the modalities for the review regretting that Nigeria had not circulated its responses in advance and suggested that progress on the implementation of recommendations should be reviewed in one year's time.

Russian Federation

Mr Georgy Matyushkin, the Deputy Minister of Justice of the Russian Federation, presented the views of the Government on the report of the Working Group. At the time of the Working Group's review, the Russian Federation kept all recommendations pending bar one, which it deemed not to be compliant with the basis of the review laid out in the institution-building text.⁵⁵ Although the Russian Federation did provide detailed written responses to the recommendations prior to the adoption of the report by the Council, the document was not translated in time. Accordingly, the benefit of these views was limited to Russian speakers. In his presentation, the Deputy Minister claimed that 70% of the recommendations had been accepted, and that the others had received the 'partial agreement' of the Government. The Deputy Minister gave a brief overview of its efforts to implement the recommendations, in particular in the sphere of economic and social rights. In relation to visits of special procedures, he emphasised that such visits required proper preparation, and announced the intention of the Government to receive two special procedures mandate holders in 2009. Mr Matyushkin gave details on the Russian Federation's work in the area of improving the judiciary, and in particular highlighted the passing a new bill on juvenile justice by the Duma. He also emphasised planned a change in the legislation on the funding of NGOs, to provide information to society about these NGOs, and the continuing work on refining the media law.

Comments by member and observer States

All of the States that took the floor commented in an overwhelmingly positive manner on the role the Russian Federation had played in the creation of the UPR process, during its own review. As it was the case for many other adoptions of reports, States that could be expected to raise even mildly critical points were very far down the list, and therefore did not get an opportunity to speak.⁵⁶ Algeria in particular congratulated the Russian Federation for its role in the preparations for the Durban Review Conference. Cuba hailed the Russian contribution to culture, literature and its great strides in guaranteeing health and education for all. The Ambassador of Sri Lanka, in a statement largely unrelated to the UPR outcome, lauded Russian history, urging the Council to recognise that 'none of the human rights discussions or institutions would be possible without the sacrifice of the Russian people in the fight against Nazism'. It was notable that several interventions by States had little to do with the report under consideration, a clear departure from the focus of the debate. Regrettably, no delegation or the President reminded these States to focus their comments on the outcome.

General comments by other stakeholders

Despite the difficulties presented by the lack of translation of the answers provided, several NGOs used the opportunity to provide general comments before the adoption of the report. The Canadian HIV/AIDS Legal Network welcomed the acceptance of recommendation 28 on promoting measures to avoid discrimination based on sexual orientation or gender identity. However, it noted that restrictions continue to be placed on the exercise of the right to freedom of expression, assembly and association for human rights defenders advocating for the rights of lesbian, gay, bisexual and transgender persons. It also requested clarification on whether prison personnel are already being trained on the protection of persons of minority sexual orientation.

⁵⁴ Amnesty International, International Human Rights Association of American Minorities.

⁵⁵ See Council *Resolution 5/1* for the basis of the review.

⁵⁶ Pakistan, Venezuela, Qatar, Algeria, Uzbekistan, Cuba, Belarus, Sri Lanka, China, Saudi Arabia, United Arab Emirates and Kazakhstan where able to take the floor. Serbia, Bahrain, Viet Nam, Indonesia, Georgia, Canada, Azerbaijan, Nigeria, Kuwait, India, USA, Czech Republic, Switzerland, Chad, Poland, Ireland, South Africa, Ukraine, Syria, Iran where unable to speak, and their statements will be posted on the OHCHR extranet.

The urgent need to end impunity, in particular in the Northern Caucasus, was raised by several NGOs.⁵⁷ Other issues raised included the lack of attention in the Working Group on the pending amendments to the regulation of accreditation of lawyers,⁵⁸ the situation of indigenous peoples,⁵⁹ and the lack of invitations to and facilitation of visits by special procedures, in particular those on torture, enforced disappearances and extrajudicial executions.⁶⁰

In closing remarks, the Deputy Minister pledged that the additional comments would be taken into account in the implementation of the UPR outcome.

Before the adoption of the report by the Council, Germany on behalf of the members of the European Union members of the Council added an interpretative declaration. Paragraph 54 of the report of the Working Group, dealing with the situation in South Ossetia, had been rejected by the Russian Federation on the basis that it fell outside the scope of the UPR. Germany rejected this view and argued that it was appropriate for the UPR to address the issue.

Saudi Arabia

Mr Zaid Bin Abdul Muhsin Al-Husain, Vice-President of the Human Rights Commission of Saudi Arabia, presented the country's views on the UPR report.⁶¹ He stressed the State's belief in the UPR mechanism, as it 'helped to ensure the universality of human rights' and has 'provided for constructive dialogue and an exchange of best practices', thereby 'promoting cooperation and mutual understanding among States' and enhancing human rights on the whole. He noted that the recommendations had been 'an expression of a sincere desire to offer advice and objective criticism' and that it had carefully studied them. Furthermore, he referred briefly to some examples illustrating what had been achieved during the period following the UPR process.⁶² In conclusion, he stressed that the promotion of human rights 'requires a sustained but also balanced endeavour in which account must be taken of social and cultural circumstances'. Of the 53 recommendations, Saudi Arabia accepted 49 recommendations, partly accepted and rejected one recommendation, and rejected three recommendations.⁶³ A more comprehensive response to the recommendations was made available in an addendum to the report of the Working Group.⁶⁴

Poor time management also meant that three NGOs were unable to take the floor, the second time that this had happened during the adoption of UPR reports at this session. This is a clearly fails to respect the space reserved for NGOs as a fixed amount of time has been set aside for their statements. All efforts should be made to ensure that NGOs do not pay the price for any failure to manage the time for the adoption of UPR reports.

Comments by member and observer States

Although 34 States signed up to speak, due to time constraints, only Pakistan, Venezuela, Qatar, Algeria, Cuba, Belarus, Bahrain, China, Egypt and the United Arab Emirates were able to speak. All of these States were only congratulatory and none addressed substance, instead thanking Saudi Arabia in particular for its 'generous contributions' to alleviate the situation of developing countries.

⁵⁷ Human Rights Watch, International Commission of Jurists (ICJ).

⁵⁸ ICJ.

⁵⁹ International Work Group for Indigenous Affairs.

⁶⁰ Human Rights Watch, ICJ.

⁶¹ A/HRC/11/23.

⁶² Regarding the judicial field; a new act on trafficking of persons; the expansion of participation by women; preventing from violence against women and children.

⁶³ It did not use the word 'rejected', but commented on the recommendation in a way to show that they would not accept the recommendation.

⁶⁴ A/HRC/11/23/Add.1.

General comments by other stakeholders

Only seven NGOs were able to take the floor during the dialogue as described above.⁶⁵ All commended Saudi Arabia for its constructive participation in the UPR process, but some underlined that more needs to be done. Amnesty International regretted the rejection of recommendations on the death penalty. It also regretted that during the review States did not engage more substantively on human rights violations committed in the context of countering terrorism. The Cairo Institute for Human Rights Studies and the International Commission of Jurists urged the State to ratify the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). The International Commission of Jurists furthermore underscored that abolishing the male guardianship for women must become a matter of priority, and requested reform of different basic laws, in particular regarding fair trial and equality for women.

In its final comments, Saudi Arabia did not respond to concerns or questions raised, but instead repeated several times that there was no time for response due to time constraints.

Senegal

Mr Madicke Niang, Minister of Justice, emphasised that Senegal had accepted 30 of 40 recommendations made during the interactive dialogue. These 30 recommendations were fully supported by Senegal already at the time of the UPR working group. Mr Niang pointed out that Senegal had submitted detailed answers to the ten outstanding recommendations and attempted to provide more concise answers in his statement. Addressing in particular the recommendations regarding the decriminalisation of homosexuality, he claimed that homosexuality is not a criminal offence in Senegal, but that there is a provision referring to ‘indecent or unnatural acts’. He added that the majority of the population of Senegal is hostile towards homosexuality, but no person is imprisoned on this basis, and that all persons who were detained in relation to ‘indecent or unnatural acts’ have been recently released. With regards to separation of power, Mr Niang argued this was already implemented even before the recommendation was made. He also outlined several measures that were taken to ensure the independency of the judiciary. Regarding the recommendation to strengthen freedom of expression and freedom of assembly, Mr Niang claimed that these fundamental rights are enshrined in the constitution and that Senegal would continue its efforts to strengthen their protection. Senegal reiterated its commitment to fight discrimination against women and outlined various measures such as the mainstreaming of gender in sexual policies, a national strategy for gender equality and awareness raising programmes regarding gender equality. Finally, Senegal pledged that it would respond favourably to all special procedures that make an official request. Mr Niang also reiterated the importance of NGOs for the protection of human rights and that principle of impunity must be combated.

Comments by member and observer States

Many States congratulated Senegal for its efforts to uphold and strengthen human rights as well as for its openness to dialogue in UPR process.⁶⁶ The United Arab Emirates highlighted that Senegal as an open Islamic country plays a pivotal role in the intercultural and inter-religious dialogue, as it is a symbol of coexistence and tolerance. It was notable that the US, that had not participated in the interactive dialogue in the Working Group, took the opportunity of the adoption in plenary to make substantive comments. The US expressed concern about the criminalisation of homosexuality and the discrimination and harassment on the basis of sexual orientation. It also reiterated the recommendations regarding the freedom of the media and urged Senegal to review its media legislation. The US further suggested that Senegal bring the former dictator of Chad to trial as mandated by the African Union, a recommendation that had been made by Switzerland and Ireland at the time of the Working Group. It also urged Senegal to strengthen its provisions to prevent female genital mutilation and suggested to conduct awareness raising campaigns on the issue. Ireland supported the US recommendations.⁶⁷

⁶⁵ National Association of Cuban Economists, Cairo Institute for Human Rights Studies, Amnesty International, Arab Commission for Human Rights, *Action internationale pour la paix*, Indian Council of South America, International Commission of Jurists.

⁶⁶ United Arab Emirates, Algeria, Pakistan, Bahrain, Egypt, Saudi Arabia, Morocco.

⁶⁷ Botswana was not able to make its statement due to time constraints.

General comments by other stakeholders

Several NGOs welcomed the efforts Senegal has undertaken in the area of human rights.⁶⁸ Le Rencontre Africaine Pour La Defense Des Droits De L'homme (RADDHO) pointed to the recommendation regarding the independences of judges and the court of magistrates. RADDHO argued that this area needs further study. The European Region of International Lesbian and Gay Association underscored the recommendations regarding the decriminalisation of homosexuality. It argued that the current penal code threatens the existence of sexual minorities and that public statements have led to increased homophobia. It urged the Senegalese government to review its penal code in this regards and to conduct educational programmes on the prevention of HIV/AIDS. In particular, it suggested that Senegal should provide training on human rights for law enforcement personnel and specifically on the rights of sexual minorities.

In its final remarks Senegal stressed its commitment to fight impunity and outlined the current developments in regards to the trial of Hissène Habré, the former Chadian dictator. Mr Niang again emphasised Senegal's commitment to improve freedom of expression and claimed that no journalist is detained because of the expression of their convictions. Mr Niang outlined further that perpetrators have been convicted on the grounds of female genital mutilation and that awareness raising programmes are conducted on a daily basis. Finally, the Ambassador claimed that contrary to 'certain rumours' Senegal would not withdraw from the International Criminal Court (ICC).

General debate on the UPR

On 12 June 2009, the Council held a general debate on the UPR. As in previous discussions much focus was placed on the modalities and functioning of the UPR, including the speakers' list, and translation of documents. These issues have caused much dissatisfaction among several States. Despite this dissatisfaction, it has so far been impossible to resolve them as States also believe that the modalities should not be changed in the middle of the UPR cycle, which they fear could lead to unequal treatment.

Several countries from all regions raised concerns about the modalities for **States signing up to speak** during the UPR.⁶⁹ Notably, however, the Russian Federation, Cuba and China only expressed mild concerns about the 'technical difficulties' with the list of speakers with China acknowledging that it 'could be improved'. Cuba stated that it was willing to consider a short term solution but would prefer if any changes only be made after the end of the first four-year cycle, as it did not see a real need to change the current system. On the other hand, Azerbaijan stated that a solution could not wait until the end of the first cycle. The UK underlined that all States wishing to speak during the review should be given a chance to do so. Slovenia and Denmark called for the statements of all States wishing to take the floor to be reflected in the outcome report. Japan suggested that member States be given priority to deliver their statements and that observer States be granted the right to circulate their statements in writing in advance. The Republic of Korea proposed that when more than 60 States have inscribed to speak, the allocated time should be divided equally among all of them. It also urged States to focus their statements on questions and recommendations and avoid standard introductions. Germany noted that it had seen a decrease in the number of questions asked during the UPR, which it regretted as questions were key to the 'authenticity and liveliness' of the process and ensured its 'constructiveness'.

The Czech Republic (on behalf of the EU) and the UK were concerned about efforts to **manipulate the review process** by 'artificially loading' the speakers' list to ensure a 'too positive picture' of the situation in the country

⁶⁸ *Comite Senegalaise des droits de l'homme, Organisation Pour La Communication En Afrique Et De Promotion De La Cooperation Economique Internationale (Ocaproce International), Cercle De Recherche Sur Les Droits Et Les Devoirs De La Personne Humaine, Comite International Pour Le Respect Et L'application De La Charte Africaine Des Droits De L'homme Et Des Peuples (Cirac), Espace Afrique International, Action Internationale Pour La Paix Et Le Developpement Dans La Region Des Grands Lacs (AIPD).*

⁶⁹ Czech Republic (on behalf of the EU), Brazil, Republic of Korea, Azerbaijan, China, Denmark, Chad, Pakistan (on behalf of the OIC), Cuba, Japan, Slovenia, Armenia, Morocco.

under review. The US was ‘deeply troubled’ that some States were successfully avoiding any criticism of their human rights record by encouraging friendly governments and government sponsored NGOs to take part in the review, and thereby effectively silencing others that wanted to address areas for improvement. The US stated that the UPR modalities are open to manipulation and that it would like to review these procedures to allow for the adequate and fair participation of all.

Several States also made general comments about the **functioning of the UPR**. Egypt (on behalf of the African Group) did not have a written statement but still took part in the debate. It expressed concerns that some States are not adhering to the principles underlying the review, claiming that some States were highlighting ‘extraneous issues’. It called on all States to adhere to the principle of cooperation. Pakistan (on behalf of the OIC) also addressed this issue stating that some States were asking others to align their policies to those of regional organisations. Pakistan argued that instead the UPR should focus on universal standards as the basis of review. The Czech Republic (on behalf of the EU) urged States not to ‘politicise’ the questions and recommendations. It noted that all States have the right to reject any recommendations, with Denmark adding that this should only happen after careful consideration of the recommendations. Denmark also stated that recommendations should not be rejected or accepted based on who had made them. However, these statements seem to conflict with the principle that States cannot reject recommendations that reflect their binding human rights obligations under international law.

The Czech Republic (on behalf of the EU) also stated that the recommendations made by States to the State under review should not become the object of negotiations. The UK stated that it was concerned that some recent recommendations could actually undermine human rights protection without explaining further. Denmark urged States not to make statements that undermine human rights. The International Service for Human Rights (ISHR) also expressed concerns about recommendations or the rejection of recommendations in contravention of the international obligations of the State under review.

In what seemed a reply to comments about alleged politicisation of the UPR, the President reminded all participants that he believed that no States or stakeholders had hidden agendas and pleaded all to avoid ‘imputation of motives’ as these can be very complex and since no one can read the intentions of others. He called on all to deal in good faith and with the common desire to promote and protect human rights.

Germany brought back the idea of involving **independent experts in the review process** instead of the current troika made up of member States. This seemed somewhat contradictory with its other comments that the UPR should remain different from the treaty bodies and the special procedures. It was also surprising that it argued that the value of the UPR was not implementation or follow up but just the public discussion of the human rights situation in all countries. On the other hand, the UK argued that implementation of outcomes was key to the impact of the UPR and its ability to improve the human rights situation on the ground.

Switzerland argued that all States under review should clearly state their positions on all of the recommendations. The Arab Commission for Human Rights called on the Council not to adopt the outcome report if the State had not provided its responses.

Several States and NGOs also complained about the lack of timely **translation** of documents.⁷⁰ The Czech Republic (on behalf of the EU) underlined that the outcomes must be translated before they can be adopted. Pakistan (on behalf of the OIC) made a similar point. Azerbaijan suggested that the recommendations made should only be reflected in the part of the recommendations part of the report and not in the general summary as has been the case until now. Nevertheless, several States expressed support for the **work of OHCHR**.⁷¹

⁷⁰ Egypt (on behalf of the African Group), United Arab Emirates (on behalf of the Arab Group), Czech Republic (on behalf of the EU), Pakistan (on behalf of the OIC), Cuba, UK, Switzerland, Japan, Azerbaijan, Organisation Internationale de la Francophonie, Arab Commission for Human Rights.

⁷¹ Czech Republic (on behalf of the EU), Russian Federation, Austria.

The Czech Republic (on behalf of the EU) was concerned about manipulation of the **NGO** speakers' list. It further stated that the time allocated for NGOs should be strictly respected, a point also made by the UK. Australia underlined that NGOs should continue to have a meaningful opportunity to contribute to the UPR. On the other hand, the Russian Federation stated that it was 'unacceptable' that some statements by NGOs that had not been made in the room (due to a lack of time), had been included in the outcome. ISHR expressed concern about respect for the allocated time for NGOs. Amnesty International stated that the difficulties with the State list of speakers 'paled' in comparison to the difficulties faced by NGOs in seeking an opportunity to speak. It explained that some Governments had supported NGOs they favour in gaining an opportunity to speak. ISHR emphasised that all NGOs must be given equal opportunity to speak during the UPR.

Cuba lashed out at international NGOs in its statement arguing some such organisations had misused the influence they have as a result of the support and funding they receive from 'powerful sources'. It provocatively asked who could claim that international NGOs legitimise the UPR process through their participation. Cuba also queried who had given these NGOs that see human rights as a 'lucrative business' the right to 'insult governments and national NGOs', perhaps indirectly referring to the critical comments made by Human Rights Watch and Amnesty International on the efforts by some States to manipulate the NGO speakers list with government funded NGOs. Cuba then argued that national NGOs with a direct experience of the situation in the country under review should be given priority during UPR debates. Sri Lanka also criticised 'well-funded' NGOs for repeating themselves and argued that there was a need for a mechanism to keep these NGOs out of the room unless they had 'something new to say'.

Several States provided an update on their **implementation of the UPR outcomes**, including Bahrain (by its Minister of State for Foreign Affairs), the United Arab Emirates, Switzerland and Colombia. The Arab Commission for Human Rights welcomed this practice and called on all States to support it. It also suggested the establishment by OHCHR of a database on follow up.

Further information

For further information on the Human Rights Council, please consult the following resources:

- Web site of the International Service for Human Rights, providing up-to-date information before, during and after sessions of the Council: <http://www.ishr.ch/council>. During the session, ISHR will provide information about the Council's proceedings on a regular but not daily basis. You can subscribe to receive alerts of our publications by sending an email to information@ishr.ch.
- Oral statements made at the Council, as well as other informal documents and draft resolutions are available on the 'OHCHR extranet' at <http://portal.ohchr.org/portal/page/portal/HRCExtranet>. Username: 'hrc extranet' Password: '1session'.
- Web site of the Office of the High Commissioner for Human Rights (OHCHR) on the 11th session of the Human Rights Council: <http://www2.ohchr.org/english/bodies/hrcouncil/11session>. For direct access to reports considered, check <http://www2.ohchr.org/english/bodies/hrcouncil/11session/reports.htm>.

NGOs and human rights defenders seeking more specific information or individual advice on the Council session, please contact the ISHR secretariat by email or phone at +41 (0) 22 919 71 00.

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