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## COUNCIL UPDATE – ITEM 6, UNIVERSAL PERIODIC REVIEW UNIVERSAL PERIODIC REVIEW (UPR) HUMAN RIGHTS COUNCIL, 11<sup>TH</sup> SESSION 9 TO 12 JUNE 2009

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### Overview

From 9 to 12 June 2009, the Human Rights Council considered and adopted the outcomes on countries reviewed by the UPR Working Group in February 2009 during its 4<sup>th</sup> session. The report covers the adoption of outcomes on Germany, Canada, Malaysia, the Russian Federation, Cameroon, Cuba, Saudi Arabia, and China. The reports on the remaining countries will be covered in an updated version of this report to be published shortly.

### Adoption of reports

#### 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.<sup>1</sup> 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

<sup>1</sup> For Germany's views on the recommendations see document A/HRC/11/15/Add.1

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.<sup>2</sup> 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.<sup>3</sup>

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 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.<sup>4</sup> 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.<sup>5</sup> The seven NGOs<sup>6</sup> 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

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<sup>2</sup> 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.

<sup>3</sup> Amnesty International in its statement deplored as well that avoided commented on recommendation number 38 concerning the access to primary health care, education and judicial authorities.

<sup>4</sup> Russian Federation, Saudi Arabia and Chad.

<sup>5</sup> It referred to the CMW and the OP ICSECR.

<sup>6</sup> 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.

## 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.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup>

### **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.<sup>10</sup> 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<sup>11</sup>. 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 increase of Islamophobia while others spoke of excessive police violence and the use of tazers,<sup>12</sup> 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*

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<sup>7</sup> For Canada's views on the recommendations see document A/HRC/11/17/Add.1

<sup>8</sup> 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.

<sup>9</sup> 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*.

<sup>10</sup> Cuba, the Russian Federation,

<sup>11</sup> 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.

<sup>12</sup> The use of Tazers was particularly criticized by the Organization for Defending Victims of Violence.

*Persons with Disabilities*.<sup>13</sup> Among interesting suggestions, the Canadian Human Rights Commission recommended Canada create a national mechanism to implement and report on its international commitments.

## **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 States<sup>14</sup> 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.

### **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.

## **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.<sup>15</sup> 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

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<sup>13</sup> Some NGOs' statement should nevertheless be taken carefully as it is difficult to fully trust the Iranian Elite Research Centre when it hoped and wished for a day when an end is put in discriminatory and inhuman treatments.

<sup>14</sup> United Arab Emirates, Thailand, Egypt, Qatar.

<sup>15</sup> See Council *Resolution 5/1* for the basis of the review.

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.<sup>16</sup> 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.

The urgent need to end impunity, in particular in the Northern Caucasus, was raised by several NGOs.<sup>17</sup> Other issues raised included the lack of attention in the Working Group on the pending amendments to the regulation of accreditation of lawyers,<sup>18</sup> the situation of indigenous peoples,<sup>19</sup> and the lack of invitations to and facilitation of visits by special procedures, in particular those on torture, enforced disappearances and extrajudicial executions.<sup>20</sup>

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,

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<sup>16</sup> 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.

<sup>17</sup> Human Rights Watch, International Commission of Jurists.

<sup>18</sup> ICJ.

<sup>19</sup> International Work Group for Indigenous Affairs.

<sup>20</sup> Human Rights Watch, ICJ.

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.

## **Cameroon**

Mr Joseph Dion Ngute, Deputy Minister in the Ministry of Foreign Affairs of Cameroon, presented the country's views on the UPR report.<sup>21</sup> 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.<sup>22</sup>

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.<sup>23</sup> 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 judiciary, but more still needs to be done. It stated that it will be available to receive comments from all in terms of

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<sup>21</sup> A/HRC/11/21

<sup>22</sup> A/HRC/11/21/Add.1

<sup>23</sup> 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 Pout La Defense Des Droits De L'homme (RADDHO).

how to improve its human rights situation, underlining its readiness to cooperate with all UN and regional mechanisms.

## **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.<sup>24</sup> 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 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,<sup>25</sup> and its ‘objectivity, impartiality’,<sup>26</sup> and ‘constructive approach to human rights’,<sup>27</sup> while States that may have made more critical comments were

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<sup>24</sup> Available through the UPR extranet at

[http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CU/A\\_HRC\\_11\\_22\\_Add1\\_CUB\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CU/A_HRC_11_22_Add1_CUB_E.pdf) . The UPR extranet can be accessed (fill out the form on the page to receive the user name and password) at [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm)

<sup>25</sup> Pakistan, Venezuela , Qatar, the Russian Federation ,Bolivia, Uzbekistan, Belarus, Sri Lanka, China, Algeria , Egypt

<sup>26</sup> Pakistan

<sup>27</sup> Russian Federation, China

pushed further down the list and therefore could not contribute.<sup>28</sup> 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.<sup>29</sup> 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,<sup>30</sup> freedom of trade unions, and a vibrant mass media. Centrist Democratic International and Human Rights Watch<sup>31</sup> were the only two NGOs that managed to raise critical 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.

### **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.<sup>32</sup> 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.<sup>33</sup> 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,

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<sup>28</sup> 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.

<sup>29</sup> Organisation for the Solidarity of Peoples of Asia, Africa and Latin America

<sup>30</sup> Centro de Estudios Sobre le Juventad

<sup>31</sup> Joint statement with Human Rights First and Federation Internationale des Droits de l'Homme.

<sup>32</sup> A/HRC/11/23

<sup>33</sup> Regarding the judicial field; a new act on trafficking of persons; the expansion of participation by women; preventing from violence against women and children.

partly accepted and rejected one recommendation, and rejected three recommendations.<sup>34</sup> A more comprehensive response to the recommendations was made available in an addendum to the report of the Working Group.<sup>35</sup>

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 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.

### **General comments by other stakeholders**

Only seven NGOs were able to take the floor during the dialogue as described above.<sup>36</sup> 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.

### **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’.

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<sup>34</sup> It did not use the word ‘rejected’, but commented on the recommendation in a way to show that they would not accept the recommendation.

<sup>35</sup> A/HRC/11/23/Add.1.

<sup>36</sup> National Association of Cuban Economists, Cairo Institute for Human Rights Studies, Amnesty International, Arab Commission for Human Rights, Action international pour la paix, Indian Council of South America, International Commission of Jurists.

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.'

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 Uyghurs 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'.

### ***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](mailto: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 11<sup>th</sup> 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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