

# COUNCIL MONITOR

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Human Rights Monitor Series

## COUNCIL UPDATE – ITEM 6, UNIVERSAL PERIODIC REVIEW HUMAN RIGHTS COUNCIL, 12<sup>TH</sup> SESSION 22-25 SEPTEMBER 2009

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### Overview

The Council considered and adopted the reports of the 16 States from the 5<sup>th</sup> session of the universal periodic review (UPR) mechanism, which had taken place in May 2009, under Item 6 of its agenda from 22-25 September 2009. The review was followed by a relatively brief general debate under Item 6, which raised a number of issues including the importance of national consultations, the need for States to declare their positions on pending recommendations in advance of the adoption of the report, the responsibilities of States

in following up on recommendations, and the participation of civil society, including the scope of the providing ‘general comments’ during the adoption of reports.

## Adoption of reports

### **Afghanistan**

The delegation of Afghanistan was headed by the Deputy Minister of Justice, Mr Qasim Hasimzai, who proclaimed that the UPR had been a productive experience, highlighting the human rights challenges and achievements in recent times. He claimed that the Government had accepted most recommendations, and had just submitted its responses to pending recommendations.<sup>1</sup> He did not address the content of those responses, but claimed that a number of initiatives were already underway to fulfil accepted recommendations, including the creation of an inter-ministerial human rights committee, the ratification of the *Convention of the Rights of Persons with Disabilities* and the recent examination of Afghanistan by the Committee on the Rights of the Child. He also informed that the State’s report to the Committee on the Elimination of Discrimination was being prepared for submission, and that the legislature had recently passed law on the elimination of violence against women.

### **Comments by member and observer States**

Many States commended the efforts of Afghanistan to promote and protect human rights despite national insecurities.<sup>2</sup> Algeria, Malaysia, Bahrain and the Russian Federation interpreted Afghanistan’s acceptance of 96 out of 143 recommendations as proof of the will of the country to improve, and Algeria, Pakistan and Kazakhstan declared that the international community must do all that it can to assist, including in relation to trafficking and corruption. India considered that ‘wide ranging reforms in the legal and judicial system and a strengthened civil society’ were among the more recent achievements, while the United Arab Emirates claimed that the Government was unstinting in its efforts ‘in all areas’, including women’s and children’s rights. Kyrgyzstan also noted the importance of the National Human Rights Commission in protecting rights.

Sweden drew attention to its own recommendations, thanking Afghanistan for accepting its recommendations relating to women’s rights,<sup>3</sup> but regretting that a moratorium on the death penalty had been removed. It called on Afghanistan to move towards the abolition of the death penalty, and also to ensure that protection of freedom of expression, including the rights of journalists,<sup>4</sup> be in accordance with its international obligations. The United States was also quite direct in calling for improvements, including implementing the national strategies on development and peace and reconstruction, strengthening the Ministry of Women’s Affairs, creating a human rights unit in the Ministry of Justice, calling on the State to adopt a media freedom law. It also shared its concerns that Sharia family law affected women’s rights.

While Qatar welcomed the recent elections and hoped that peace could be preserved, Hungary expressed its concern at the large number of alleged irregularities, and called on the State to request full inquiries and address the matter accordingly.

### **Comments by other stakeholders**

The National Human Rights Commission of Afghanistan was direct in urging the Government to take practical steps to ensure women can enjoy all of their rights, to ensure freedom of expression and protect journalists,

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<sup>1</sup> A/HRC/12/9/Add.1

<sup>2</sup> Algeria, Qatar, Malaysia, Pakistan, Russian Federation, Indonesia, United Arab Emirates, India, Sweden, Bahrain, Kyrgyzstan, Kazakhstan.

<sup>3</sup> Bahrain also welcomed new legislation on violence against women.

<sup>4</sup> United States.

including putting an end to detention for the sharing of views among human rights defenders. It also called for better compliance of national law with international obligations, and stronger financial support for the work of the Commission.

International PEN was encouraged by support for principles of freedom of expression through legislation and monitoring, but remained concerned with press freedom restrictions and the targeting of journalists. It also noted that the application of the death penalty under blasphemy laws had not been addressed in the UPR and that many writers currently reside on death row charged with blasphemy, who International PEN will continue to campaign for. The Islamic Human Rights Commission drew on statistics to show that detention of journalists is widespread, with a focus on the US-administered Bagram prison.

The International Lesbian and Gay Association criticised the fact that homosexuality remains punishable by death, and that this is incompatible with the State's obligations under the *International Covenant on Civil and Political Rights* only to apply the death penalty to the 'most serious crimes'. Human Rights Watch stated that the lifting of the moratorium did not meet human rights standards, and that the recent elections were 'deeply flawed'. It stated that recent amendments to the Sharia family law were still 'egregious'. The Charitable Institute for Protecting Social Victims called for active efforts to increase women's administrative and judicial participation, while the International Institute of Peace claimed that any State which supported negotiations with the Taliban was complicit in the most serious violations of women's rights.

Amnesty International criticised the fact that only a handful of persons have been prosecuted since the 2005 national peace plan, and that impartial investigations needed to be carried out. It called for prompt investigation, particularly for crimes against women, and called for greater efforts to ensure equality in law and practice. Al Hakim Foundation recommended as one measure increased dissemination of human rights principles at the school level.

The Deputy Minister responded in conclusion that in relation to women's rights Afghanistan had ratified CEDAW without reservation and that it intended to apply its new laws and produce results in order to give women 'a proper share'. He also acknowledged that the original Sharia law was incompatible with international obligations, and had since been amended with the help of the international community to account for this. He claimed that it could be reviewed once more if it was still incompatible. Concerning the elections, he stated that international election monitoring bodies are currently looking into the matter and the Government would await their findings before acting.

## Chile

Mr Carlos Portales, Permanent Representative of Chile to the United Nations, stated that the UPR process had been a frank and constructive exchange that would increase the efficiency in the implementation of Chile's international human rights commitments. Chile accepted 71 recommendations out of a total of 76. Mr Portales informed the Council on various measures and policy initiatives that were adopted after the presentation of the national report and are in compliance with the recommendations received.<sup>5</sup> He outlined that Chile ratified the *Rome Statute of the International Criminal Court*, the *Convention on Enforced Disappearances* and *ILO Convention No. 169*. Furthermore, he announced that Chile will sign the *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*. Mr Portales added that at the beginning of September the Chilean congress approved the creation of a National Institute for Human Rights and the corresponding bill includes elements to take additional steps in order to complete reparations of human rights violations during the military regime. Mr Portales also announced that Chile recently signed the Headquarters Agreement for the establishment of a regional HCHR Office for South America. Moreover, he declared that Chile is currently working on a National Human Rights Plan in order to mainstream the promotion and protection of human rights into the conception and implementation of all public policies.

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<sup>5</sup> Initiates and laws in the following areas: restriction of military justice courts, anti-terrorist laws, right of expression, prevention of torture.

Mr Portales underscored that the family is identified as the core unit of society in national laws. He emphasized that freedom of expression is protected by the Constitution and reporters and filmmakers enjoy maximum freedom in their exercise of their professions. The Ambassador emphasised that Chile has made significant progress since the 1960s with regards to reproductive health matters and argued that Chile will reach the MDG regarding maternal morbidity. He underscored that sterilisation is legal, contraceptives are freely available and that medical care does not discriminate between those in need. He acknowledged that abortion is illegal under the Constitution, but stressed that discussion on ‘therapeutic abortions’ are ongoing. He outlined that Chile wants to increase the participation of indigenous people and that several measures were taken to increase indigenous participation and their living conditions. Mr Portales concluded by affirming that all remarks made during the interactive dialogue will be passed on to the Government and will be analysed.

### **Comments by member and observer States**

Member States mainly applauded that Chile had accepted almost all recommendations and provided answers to all questions and recommendations.<sup>6</sup> States also commended the various measures Chile has taken recently to further advance the promotion and protection of human rights, such as the ratification of the *Rome Statute*, the *Convention on Enforced Disappearances*, the signature of *ILO Convention 169*, new legislation on the principle of equal pay for equal work, the establishment of a National Institute for Human Rights, the inclusion of human rights in school curricula and the development of a National Human Rights Plan. Hungary was interested in an update on the amendment of the criminal law with regards to all forms of trafficking and asked for more information on measures taken to improve the situation of refugees.

### **Comments by other stakeholders**

In contrast to the solely laudatory statements by States, NGOs also highlighted the remaining challenges Chile faces with regards to the protection of human rights. The Canadian HIV/AIDS Legal Network expressed concern that two recommendations regarding safe abortions were rejected by Chile at the Working Group stage so that the civil society had no opportunity to engage in a dialogue on the matter. This concern was shared by the Federation for Women and Family Planning. The Federation for Women and Family Planning also urged the Government to ensure the protection of transsexuals and women engaged in sex work, who are often the victims of murder. It suggested the training of State officials on gender identity to decrease violence against transsexuals. Amnesty International shared these concerns and argued further that the existing anti-terrorism laws are applied in a discriminatory manner against indigenous people. These concerns were supported by the International Association against Torture and *France Libertes: Fondation Danielle Mitterrand*, which together with the Organisation for Defending Victims of Violence expressed further concern on land rights of indigenous minorities which are threatened by industrial projects. The Society for Threatened Peoples, together with the Indian Council of South America, expressed particular concern for the violation of rights of the Mapuche people. *Conectas Direitos Humanos* was disappointed that no direct follow up mechanism to the UPR had yet been created even though the proposal was accepted by the Government.

### **Republic of Congo**

On 24 September the Republic of Congo responded to the report of the Working Group on its UPR review at the 5<sup>th</sup> session. Represented by Ms Niamayoua, the Minister for Primary and Secondary Education, Congo spoke of its commitment to human rights whilst recognising significant financial restraints on its ability to do so. It reiterated its commitment to fulfil its international obligations. Of the fifty-one recommendations put to it, Congo accepted all but nine. The rejected recommendations suggested that the State decriminalise homosexuality in a bid to help the treatment and prevention of HIV/AIDS, allow for the advertising of contraceptives which has been banned since the 1920, desist from imprisoning child prostitutes, and issue a standing invitation to all special procedures mandate holders.

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<sup>6</sup> States that took the floor included Algeria, Morocco, Columbia, Mexico, Nicaragua, and Hungary.

Congo reiterated that it plans to ratify further conventions but does not currently have the capacity to do so, and took ‘due note’ of the recommendation to establish a national human rights institution (NHRI) in line with the Paris Principles.<sup>7</sup> On thematic issues it stated that judicial independence is a basic tenet of the constitution and that the rights of prisoners are a ‘prime concern’, with the Attorney General and the ICRC making regular inspections. The issues of female genital mutilation, gender discrimination and the rights of internally displaced persons were all also addressed, with a new law being outlined on the latter.

### **Comments by member and observer States**

A significant proportion of the States which took part in the following dialogue was from the African Group, and offered little in the way of specific substance. Gabon stated that it is satisfied the existing NHRI is in fact in line with the Paris Principles, and the Democratic Republic of Congo was pleased with the new information on developing new legislation covering IDP rights. Cameroon generally called upon Congo to implement the recommendations made.

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

NGO speakers focused on the commendable pledges to abolish the death penalty and revise certain laws. However, harsher criticism was expressed on some issues, including the overpopulation of prisons and arbitrary detentions; limitations placed on NGOs working in the country; and lack of legislative protection for homosexuals, including those with HIV/AIDS.<sup>8</sup> The International Lesbian and Gay Association suggested that the lack of legislation protecting homosexuals inhibits efforts to address the HIV/AIDS epidemic, whilst FIDH noted with dismay that homosexuality is still a criminal offence.

Congo concluded the meeting by saying that it would provide more information on the implementation of the recommendations accepted, and thanked all parties for their contributions. On the issue of decriminalising homosexuality, Ms Niamayoua justified the State’s position by claiming that cultural beliefs prevent the Government from changing existing legislation, but she nevertheless committed to discussing the issue further at the national level. On the issue of gender discrimination, she expressed her hope that new legislation would be forthcoming following lengthy Governmental discussions. The report was adopted by consensus.

## **Comoros**

Mr Mohammed Jaffar Abbas, Secretary-General of the Ministry of Human Rights, introduced the responses of Comoros to the report of the Working Group. The Comoros had accepted 52 recommendations and rejected 7 at the Working Group stage. The rejected recommendations dealt with the abolition of the death penalty, decriminalisation of same-sex activity between adults, and freedom of religion including the right to change one’s religion. Mr Jaffar Abbas updated the Council on latest developments, announcing that separatist military detainees have been released, and judicial investigations against opposition party politicians have been discontinued. While he reiterated the commitment of his Government to implement accepted recommendations, he provided no information on those recommendations rejected at the Working Group stage.

### **Comments by member and observer States**

Several States supported the Comoros’ call for technical and financial assistance by the international community.<sup>9</sup> Senegal encouraged the Comoros to establish and NHRI.

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<sup>7</sup> The *Paris Principles* were adopted by the United Nations General Assembly as an Annex to *Resolution 48/134*. They define the role and functions of national human rights institutions (NHRIs) in the promotion and protection of human rights. Available at: [www.un.org/Depts/dhl/res/resa48.htm](http://www.un.org/Depts/dhl/res/resa48.htm).

<sup>8</sup> International Lesbian and Gay Association, FIDH and Action Canada for Population and Development.

<sup>9</sup> Morocco, Algeria, Senegal.

### **Comments by other stakeholders**

The Canadian HIV/AIDS Legal Network recalled that the Human Rights Committee has stated that the criminalisation of same-sex activity between consenting adults violates privacy, and stressed that such laws runs counter to the prevention of HIV. In response, the delegation said that there is no prosecution on this basis, but time is needed to reform the legal framework in order to change things.

### **Malta**

The report of the UPR Working Group's examination of Malta was adopted on 23 September 2009. Malta had left all recommendations pending at the Working Group stage, and had issued its responses to the recommendations as an addendum to the report.<sup>10</sup> Mr Victor Camilleri, Ambassador of Malta to UNOG, presented these responses, saying that the UPR process had been both challenging and rewarding for the Government of Malta. While he announced that Malta will ratify the Optional Protocol to the *Convention on the Rights of the Child* (CRC), it rejected recommendations to ratify the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICRMW), the *Option Protocol to Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) and the *International Convention for the Protection of All Persons from Enforced Disappearance* (ICPPED). The addendum specifies that seven recommendations are 'noted' and three 'cannot [be] accept[ed]' by Malta and provides relatively detailed views on the other recommendations. However, it seems that most were either implicitly rejected, either because Malta considers to be already taking the recommended steps, or because it reaffirmed its previously stated positions. This was in particular the case with issues related to migration, and to discrimination based on sexual orientation and gender identity. On the latter issue, Malta felt that the legal recognition of relationships between persons of the same sex remained 'a matter of national competence'.

### **Comments by member and observer States**

Only Algeria and the US took the floor. The US commended Malta for its efforts to deal with migratory flows, in particular the advice provided to migrants, and the collaboration with civil society in this regard. This low level of interest was surprising, given the large amount of attention given by States to the panel on the rights of migrants in detention centres earlier in the session on the one hand, and the prominence of this issue in the Working Group that met a mostly negative response by Malta on the other hand.

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

ILGA Europe in a joint statement<sup>11</sup> recommended that Malta adopt further measures to fight discrimination on grounds of sexual orientation and gender identity, consistent with the State's endorsement of the joint statement on human rights, sexual orientation and gender identity delivered at the General Assembly in December 2008. ILGA Europe highlighted in particular the issue of non-discrimination of same-sex couples, access to health services and the legal status of transgender persons. While commending Malta for including sexual orientation and gender identity in awareness raising campaigns, it also asked the government to inform the Council the way such campaigns are carried out, and to include civil society organisations in their design and implementation.

The International Commission of Jurists (ICJ) regretted that Malta has rejected recommendation on changing its terminology on 'prohibited migrants'. It urged the Government to provide procedural safeguards to both asylum seekers and other migrants, and in particular to guarantee free legal assistance. In its addendum, Malta had rejected

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<sup>10</sup> A/HRC/12/7/Add.1/Rev.2.

<sup>11</sup> International Lesbian and Gay Association (ILGA-EUROPE); Canadian HIV/AIDS Legal Network; Federatie van Nederlandse Verenigingen tot Integratie van Homoseksualiteit COC Nederland.

recommendations to this effect, arguing that the absence of such assistance would not always ‘operate to the disadvantage of those subject to detention’.<sup>12</sup> The ICJ also expressed concern about the conditions of detention.

### **New Zealand**

Ms Dell Higgie, Permanent Representative to the UN, emphasised New Zealand’s strong support for the UPR process as an opportunity for New Zealand to ‘subject its human rights record to scrutiny.’ She added that the national report was a product of an open and consultative process, which involved many groups both inside and outside the Government. Of the 64 recommendations, New Zealand accepted 33, agreed further to 12 with reservations, left 11 pending, and rejected 8.<sup>13</sup> The Ambassador argued that many of the recommendations focused on challenging areas, which the Government itself recognised as requiring further attention. These include: the social disparities between non-Maori and Maori within New Zealand, the status of the Treaty of Waitangi in domestic legislation, family violence, equality of opportunity, over-representation of Maori in the criminal justice system, and ratification of human rights treaties to which New Zealand is not a party. Ms Higgie underscored that New Zealand has ratified the Second Optional Protocol to the Convention on the Rights of the Child<sup>14</sup> and considers becoming party to the Convention on the Protection of all Persons from Enforced Disappearances. The Government is currently reviewing its position on the UN *Declaration on the Rights of Indigenous People*. New Zealand did not accept the recommendation to ratify the *Convention on the Rights of Migrant Workers, ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries*, or the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and did not provide any reason to the Council. Ms Higgie further explained that the concerns regarding the *Foreshore and Seabed Act 2004* were taken seriously and an expert panel has been established to review the Act.

She concluded by saying that the Government will address the overrepresentation of Maori in the criminal justice system and that the ratification of the *Convention on Migrant Workers* is not necessary as national legislation ensures the protection of all workers.

### **Comments by member and observer States**

All member States that took the floor commended that New Zealand accepted the majority of the recommendations.<sup>15</sup> Sweden welcomed in particular that New Zealand provided written replies on pending issues well in advance of this session, in contrast to most States. The USA commended New Zealand’s acceptance of recommendations regarding human trafficking, and urged New Zealand to consider domestic trafficking crimes within the scope of its anti-trafficking law. Algeria and Iran regretted the rejection of recommendations regarding the ratification of the *Convention on Migrant Workers* and to bring its national legislation in line with the obligations of the *International Covenant on Civil and Political Rights*. Iran also expressed concern on the disparities between the Maori and non-Maori population and argued that counter-terrorism measures could lead to violations of social and political rights. Sweden criticised that New Zealand often only agreed to certain aspects of the recommendations. It argued that this is difficult for follow up since it is unclear to what extent the Government is committed to work on the implementation of these recommendations. Sweden regretted that New Zealand could only partly accept its recommendation on the over-representation of Maori in the criminal justice system and urged New Zealand to increase its efforts in this respect.

### **Comments by other stakeholders**

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<sup>12</sup> See paragraph 29 of the addendum to the report of the Working Group.

<sup>13</sup> Detailed answers by New Zealand to the recommendations can be found in A/HRC/12/8/Add. 1 available at [http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/NZ/A\\_HRC\\_12\\_8\\_NZL\\_Add1\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/NZ/A_HRC_12_8_NZL_Add1_E.pdf)

<sup>14</sup> It further ratified in the last three years the Convention on the Reduction of Statelessness, the Optional Protocol to the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment and the Convention on the Rights of Persons with Disabilities.

<sup>15</sup> Algeria, Malaysia, Sweden, Iran, USA.

NGOs welcomed the constructive dialogue with New Zealand. However a number of NGOs<sup>16</sup> expected a stronger response to the recommendations regarding the existing gender pay gap. Several NGOs<sup>17</sup> regretted the lack of support for the UN Declaration on the Rights of Indigenous People and urged New Zealand to improve the conditions for indigenous people. They demanded in particular to increase efforts to reduce the over-representation of Maori in the criminal justice system and to continue the dialogue regarding the Treaty of Waitangi. The Women's International League for Peace and Freedom urged New Zealand to reconsider its position on ILO Convention No. 169 and the Convention on Migrant Workers. Amnesty International and the Indigenous World Association criticised the rejection to ratify the Optional Protocol on Economic, Social and Cultural Rights.

### **Slovakia**

Ambassador Mr Anton Pinter from the Human Rights Department of the Ministry of Foreign Affairs described all elements of the UPR as inspiring and useful, giving Slovakia the chance to compare its views on the practical realisation of human rights with the opinion of the UN human rights bodies, member States and NGOs. Slovakia accepted 79 out of 91 recommendations without any reservations, rejected 9, and accepted 3 with reservations.<sup>18</sup> Mr Pinter outlined in detail the reasons for not accepting each of the 9 rejected recommendations. He explained that most of these recommendations call for additional legal instruments to protect human rights and he claimed that the existing legal norms provide a sufficient framework for the protection of human rights. The other reason for the rejection of recommendations in the field of forced sterilization of Roma women is that there has never been an official state policy or endorsed practice of forced sterilisation according to the Government. He added that investigations on the issue showed that no forced sterilisations occurred.

Other rejected recommendations included the setting-up of a comprehensive legal framework for the protection of minority groups and the development of a national action plan on the protection of civil rights for lesbians, gays, bisexuals, and transgender persons. Partly accepted recommendations covered: the exploitation of children in the workplace, measures on religious freedom, and a comprehensive response to all questionnaires from Special Procedures. Mr Pinter announced that Slovakia has signed the *Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights*. He concluded by saying that Slovakia is committed to the implementation of all accepted recommendations. However, this implementation requires huge financial resources, determination and cooperation and thus solutions are not necessarily imminent, but would bear fruit at a later stage.

### **Comments by member and observer States**

The three States that took the floor, Hungary, Algeria and the Russian Federation, mainly commended Slovakia for the progress made with regards to the protection of human rights. Algeria in particular welcomed the developments regarding gender equality and urged Slovakia to increase its Official Development Assistance to meet the MDGs. Hungary expressed concern that the *State Language Act* runs counter to various international human rights commitments and limits the rights of minorities. In response to the critique of Hungary, Mr Pinter argued that the *State Language Act* complies with international norms according to the High Commissioner on National Minorities of the Organisation of Security and Cooperation in Europe. Furthermore, the Commission on Minorities will meet soon and Slovakia will undergo two reviews regarding the implementation of the European Charter on Human Rights and the Framework Convention on National Minorities in the next three months.

### **Comments by other stakeholders**

The main issues addressed by NGOs included discrimination against Roma people and violations of their rights, such as the placement of Roma children in separate schools, the forced sterilisation of Roma women, limited

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<sup>16</sup> The Charitable Institute for Protecting Social Victims, the New Zealand Human Rights Commission, Women's International League for Peace and Freedom.

<sup>17</sup> New Zealand Human Rights Commission, Women's International League for Peace and Freedom, Canadian HIV/AIDS Legal Framework, Indigenous World Association, Amnesty International, The Charitable Institute for Protecting Social Victims.

<sup>18</sup> Answers by Slovakia to all recommendations can be found in A/HRC/12/17/Add.1 available at <http://www.ohchr.org/EN/HRBodies/UPR%5CPAGES%5CSKSession5.aspx>

access to economic and social rights, including housing and education, and participation in policy making.<sup>19</sup> The International Gay and Lesbian Association welcomed the response of Slovakia that the National Action Plan on Human Rights includes LGT rights and argued that same sex couples should enjoy the same rights as heterosexual couples.

### **Vanuatu**

On 25 September, the report of the Working Group on the review of Vanuatu was adopted, following a disappointingly cursory discussion of the document. Vanuatu stated that it would ‘accept’ the vast majority of the 48 recommendations, reserving its position on recommendations 2, 3, 5, 7, and part of recommendation twenty. All of these recommendations related to ratification of further international treaties such as the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICRMW) and the Second Optional Protocol to the *International Covenant on Civil and Political Rights* (ICCPR) on the abolition of the death penalty. Its reasoning for all of these was that it did not yet have the financial resources to commit to the undertakings, but assured the Council that discussions were already under way to look ratifying additional instruments. On the issue of access to education, Vanuatu stated that it accepted the suggestions concerning awareness raising, but could not commit to imposing sanctions for parents who do not send their children to school. Instead, it said, it would undertake a counselling programme for the parents in question.

### **Comments by member and observer States**

Only five States took part in the following discussion,<sup>20</sup> with two of those being concerned geographical neighbours, Australia and New Zealand. Both commended Vanuatu for its efforts during the review, despite its limited resources, and committed to helping the State implement the recommendations. The US comments on the need to improve transparency within the Government, claiming that corruption is a big problem. It also praised Vanuatu for its work on passing the recent *Family Protection Act* of 2008.

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

Much more impressive was the depth of interest exhibited by a small group of NGOs. Amnesty International had useful suggestions on ensuring adequate resources for the implementation of the *Family Protection Act* and called upon the State to ratify ICESCR as soon as possible, to demonstrate its commitment to poverty reduction. The Canadian HIV/AIDS Legal Network praised Vanuatu for the format of its responses to the recommendations and called on all States to mirror its approach. It also recommended that Vanuatu use the Yogyakarta Principles<sup>21</sup> to guide its development of anti-discrimination laws, and suggested that it join the joint statement on sexual orientation and gender identity delivered at the General Assembly in 2008. Franciscans International focused on education issues, suggesting that the State creates a national curriculum for secondary schools and provides vocational training to young people to improve their employability. It also suggested that the State invite the Special Rapporteur on the right to education to the country to further assess its needs and areas of possible improvement.

Vanuatu thanked all contributors for their interventions and said that it would consider all of them in its bid to improve its protection and promotion of human rights.

### **Former Yugoslav Republic of Macedonia**

On 25 September, Svetlana Geleva, Head of Sector for Multilateral Relations, Ministry of Foreign Affairs presented her country’s responses to the recommendations of the UPR Working Group. She highlighted the

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<sup>19</sup> Amnesty International, International Gay and Lesbian Association, Franciscans International.

<sup>20</sup> Algeria, India, Australia, New Zealand, US.

<sup>21</sup> <http://www.yogyakartaprinciples.org>.

commitment of the Former Yugoslav Republic of Macedonia (Macedonia) to meet its international human rights obligations and underlined this statement by fully accepting 41 of the 42 recommendations made by the Working Group and partly rejecting one. This included the will to ratify the *Convention to the Rights of Persons with Disabilities* (CRPD) and its Optional Protocol, the *Convention for the Protection of All Persons from Enforced Disappearance* (ICPPED), the Optional Protocol to the *International Covenant on Economic, Social and Cultural Rights* (CESCR), and the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICRMW).

Of note were the acknowledgements made to improve the interethnic relations according to the *Ohrid Framework Agreement*.<sup>22</sup> As part of the ‘Roma Decade’, Macedonia introduced a Roma strategy action plan, including particular efforts at combating violence against Roma women and improving the situation for Roma children, such as in education. Independent external control mechanisms of the police forces have been introduced, aimed at raising the independence of police and to ensure the investigation of ill treatment by law enforcement officers. Finally, Macedonia claimed that it does not discriminate on the basis of sexual orientation and gender identity but rejected recommendations to ensure equal rights and responsibilities to same-sex partners, without giving a more detailed explanation.

### **Comments by member and observer States**

The dialogue was dominated by acknowledging the efforts taken by Macedonia.<sup>23</sup> Hungary urged the State to reassess the legal status of Kosovo refugees. Algeria suggested continuing efforts to ensure the enjoyment of economic, social and cultural rights for ethnic minorities, such as access to housing, health care and education. Bulgaria stressed that ethnic intolerance towards persons of Bulgarian ethnicity remains a problem, and urged the country to fully ensure ethnic equality. The USA welcomed the initiatives in the field of education, but felt that the increase of ethnic segregation in schools was alarming.

### **General comments by other stakeholder**

In a joint statement, the International Lesbian and Gay Association (ILGA-EUROPE) urged Macedonia to reconsider the decision on same-sex partnerships.<sup>24</sup> The International Commission of Jurists (ICJ) called upon the State to promptly take measures to fulfil all recommendations on ill treatment by the police. Furthermore it regretted that the UPR did not address the detention of Mr Khaled El-Masri, and his transfer to Afghanistan under the CIA rendition programme. Action Canada for Population and Development (ACPD) stressed that Roma girls under the age of 18 years cannot access centres that assist victims of domestic violence and urged the State to grant an amnesty for infringements conducted by begging Roma children under the age of 16 years.

### **Belize**

On 23 September 2009, Ms Kamela Palma, High Commissioner of Belize to the United Kingdom, presented her country’s views on the recommendations issued after Belize’s review under the UPR earlier in the year. She stressed Belize’s commitment to human rights as ‘fundamental to our development, our democracy, and our very way of life’. She reported that Belize accepted 36 recommendations out of the 46 issued during the UPR review.

Ms Palma stressed that Belize is already beginning to take action on a number of recommendations. For instance, Belize is exploring the possibility of establishing a national human rights institution. She also emphasised that Belize faces several obstacles in its pursuit of ‘a more perfect enjoyment of human rights’ for all its citizens. In particular, Ms Palma pointed out the scarcity of resources available to Belize and stressed the importance of technical assistance from the international community.

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<sup>22</sup> See for instance [http://en.wikipedia.org/wiki/Ohrid\\_Agreement](http://en.wikipedia.org/wiki/Ohrid_Agreement).

<sup>23</sup> The following States participated in the dialogue on the adoption of the report: Algeria, Bosnia and Herzegovina, Bulgaria, Hungary, the Russian Federation, Slovakia, Slovenia and the USA.

<sup>24</sup> Together with the Canadian HIV/AIDS Legal Network; Federatie van Nederlandse Verenigingen tot Integratie van Homoseksualiteit COC Nederland.

### **Comments by member and observer States**

Several States congratulated Belize for its efforts to promote and protect human rights and welcomed its acceptance of many of the recommendations.<sup>25</sup> The Russian Federation expressed that, as a member of the troika which assisted in the review of Belize, it was particularly satisfied with the State's constructive approach to the review. Cuba recognised positive developments in education and combating human trafficking, while stressing the importance of continuing to make protection of women's rights a priority.

### **General comments by other stakeholder**

The only NGO to comment on the report on Belize was the Canadian HIV/AIDS Legal Network. It welcomed the acceptance of the recommendation relating to the provision of human rights training with respect to vulnerable groups, 'in particular women, children, indigenous peoples, and persons of minority sexual orientation or gender identity', to law enforcement and other public officials. It requested more information from Belize on how it plans to implement this recommendation. The Canadian HIV/AIDS Legal Network also expressed its serious disappointment that Belize declined to accept recommendations that it take legislative measures to ensure that no person be subject to criminal sanctions for same-sex activity between consenting adults, in particular by revising any discriminatory legislation, and adopt measures to promote tolerance in this regard.

### **Central African Republic**

On 23 September 2009, Mr Leopold Ishmael Samba, the Permanent Representative of the Central African Republic to the UN Office at Geneva, presented his country's views on the recommendations issued after the country's review under the UPR. He expressed the Central African Republic's openness to the UPR process and explained that there have been many positive developments in the country, despite cultural and financial challenges.

Mr Samba pointed to the recent decriminalisation of press crimes as a very positive change. He emphasised, however, that journalists can still be guilty of common law crimes, such as defamation. He announced that there is a new criminal code and a new code of criminal procedure. In addition, a new code of military justice will be completed soon.

Mr Samba stressed that 'cultural difficulties' and a lack of resources are serious barriers to progress in following through with some recommendations. Mr Samba stated that the Government wishes to implement a Truth and Reconciliation Commission and a Compensation Fund for victims of the massive human rights violations which occurred in 2002 and 2003. Unfortunately, efforts to do so have been curbed by financial difficulties. Furthermore, Mr Samba explained that despite efforts to ensure equitable justice and put an end to impunity, corruption and arbitrary arrest are still problems because a lack of financial, institutional, and human resources prevents the Government from carrying out reforms to the justice system. He added that the Central African Republic is also considering abolishing the death penalty, but that public support for the death penalty is high because of the high prevalence of violent crime.

The Central African Republic has signed the *Convention on the Elimination of Discrimination against Women* (CEDAW) and has criminalised sexual mutilation of girls. However, Mr Samba indicated that sexual mutilation still occurs because of 'cultural difficulties'. He asserted that these cultural difficulties are also making it difficult to reform the family code in order to criminalise polygamy. Furthermore, Mr Samba stated that the Central African Republic is not prepared to sign any domestic law on discrimination against women, again because of cultural difficulties. He then pointed out that while discrimination against women is not prohibited by law, it is neither authorised by law.

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<sup>25</sup> Algeria, Russian Federation, Cuba.

### **Comments by member and observer States**

12 States participated in the dialogue on the adoption of the report.<sup>26</sup> These States' comments were overwhelmingly supportive of recent reforms and changes in the Central African Republic. The Russian Federation congratulated the Central African Republic on the development of its new criminal code and the Democratic Republic of the Congo welcomed the State's 'determination and commitment to pursue national reconciliation'. Morocco commended the Central African Republic on its constant efforts to protect human rights, especially as financial crisis and military violence have limited its resources. Many States also called upon the international community to provide financial and technical support to the Central African Republic.<sup>27</sup> The United States was the only State to make any critical comments. It expressed its appreciation for reforms in the justice system and efforts to reintegrate child soldiers, but also stressed its concern over persistent gender-based violence, extrajudicial killings, and impunity.

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

Comments by other stakeholders were generally much more critical than comments by States. The International Federation for Christian Action against Torture expressed concerns about torture and mistreatment in prisons. It urged the Central African Republic to ratify the *Convention against Torture* (CAT) and to make legislative reforms in order to abolish capital punishment, ensure access to lawyers and doctors for persons in detention, and fight prison overpopulation. Human Rights Watch expressed concerns about continuing attacks on civilians and continuing allegations of abuse of civilians by paramilitary groups aligned with the Government. The International Federation of Human Rights Leagues expressed its strong disapproval of a 2008 law providing amnesty for former combatants. It stated that the amnesty law was evidence that the authorities do not take interest in the plight of victims. Interfaith International urged the Central African Republic to undertake further internal legislative reform in order to 'move towards the rule of law'.

Mr Samba made several strong comments in reaction to the statements of States and other stakeholders. He urged members of the international community to compare the Central African Republic of 2003 and that of the present day in order to see the dramatic improvements which have been made. He also pointed out that the eastern part of the country is still 'totally disturbed and upset by rebels from Uganda'. He asked the international community to be more tolerant, as everyone is aware of the Central African Republic's limited financial and military resources. Mr Samba stated that 'if we were to receive your aid and do nothing, then you would be entitled to point the finger at us,' but that no one in the room could say that they had earmarked funding to help build more prisons or strengthen capacity in the Central African Republic.

Mr Samba expressed his belief that the Central African Republic has clearly shown its willingness to make changes, but that in reality it simply does not have the resources to implement every recommendation. He strongly objected to Interfaith International's characterisation of the Central African Republic as a country without rule of law. Furthermore, Mr Samba emphasised that without a law granting amnesty to former combatants, the country would fall into a situation of violent conflict similar to that of 2003, which could not possibly be resolved by legal measures. Mr Samba emphasised that the law is necessary to ensure peace.

### **Uruguay**

On 23 September 2009, Ms Maria Elena Martinez, the Director of Human Rights under the Ministry of Education and Culture of Uruguay, presented her country's views on the outcome of its UPR process. Dr Martinez was pleased to announce that Uruguay accepted all of the 88 recommendations received during the UPR process. She then gave an overview of the actions Uruguay is taking in order to implement the recommendations.

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<sup>26</sup> Algeria, Russian Federation, Egypt, Libya, Morocco, USA, Djibouti, Cameroon, Democratic Republic of the Congo, Gabon, Chad.

<sup>27</sup> Algeria, Russian Federation, Morocco, Cuba, Djibouti, Cameroon, DRC, Gabon, Chad.

Ms Martinez announced that Uruguay would sign the *Optional Protocol to the Convention on Economic, Social, and Cultural Rights* later in the day in New York. She also announced that in 2008 Uruguay approved plans to establish a national human rights institution, in keeping with the Paris Principles. Ms Martinez stated that the three primary areas of focus in human rights for her government are: penal system reform, equality for boys, girls, and women, and eliminating discrimination.

She explained that there is a bill on penal system reform currently before parliament. It will emphasise respect for the principle of presumption of innocence and will expand the provision of social services such as healthcare and education to prisoners. Ms Martinez stated that in order to address issues effecting children, Uruguay has enacted new laws to combat trafficking in children and expand universal education. She added that pending legislation would raise the age for marriage for both sexes to sixteen and would sanction sexual harassment in schools and workplaces. Ms Martinez then spoke about the issue of discrimination. She stated that Uruguay has followed recommendations from the *Committee on the Elimination of Racial Discrimination* (CERD) to hold open consultations with civil society on the topic of discrimination and begin formulating a national plan against discrimination. Ms Martinez also noted that new legislation expands recognition of rights for same sex couples and allows transgendered persons to alter their official documentation to reflect their gender identity.

### ***Comments by member and observer States***

States commented in an overwhelmingly positive manner on Uruguay's participation in the UPR process.<sup>28</sup> Several States particularly noted Uruguay's commitment to poverty reduction and social services.<sup>29</sup> Furthermore, both Cuba and Nicaragua suggested that Uruguay might provide a model of best practices for other States in the region.

### ***General comments by other stakeholder***

Five NGOs took the floor during the discussion.<sup>30</sup> They all encouraged Uruguay to do more to protect and promote human rights. The Federation for Women and Family Planning expressed its disappointment that a comprehensive law passed by parliament in December 2008 defending women's reproductive rights was recently restricted by a presidential veto. It also drew attention to the weak legal framework combating discrimination and the lack of adequate judicial procedure for women who are victims of violence. Action Canada for Population and Development expressed concerns about the occurrence of human trafficking, lack of attention to cases of missing persons, and poor prison conditions. It also noted with concern that no resources have yet been allocated to the implementation of a recently established programme to combat the exploitation of children.

The most positive comments were made by COC Netherlands, which commended Uruguay on being the first country in Latin America to provide for same sex unions. It also congratulated Uruguay on the implementation of recent legislation allowing transgendered persons to officially change their gender identity without completing sex re-assignment surgery.

In her concluding comments, Ms Maria Elena Martinez explained that Uruguay could not be expected to fully implement all 88 recommendations within four months. She pointed out that in the past four years 160 of the 650 laws passed by parliament were related to human rights. Ms Martinez expressed hope that this attention to human rights would be viewed as a clear sign of Uruguay's will to work towards full implementation of the recommendations.

### **Monaco**

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<sup>28</sup> China, Algeria, Venezuela, Cuba, the Russian Federation, Nicaragua, and Columbia all participated in the discussion.

<sup>29</sup> Venezuela, Cuba, Russian Federation.

<sup>30</sup> COC Netherlands, Conectas Derechos Humanos, International Commission of Jurists, the Federation for Women and Family Planning, and Action Canada for Population Development participated in the discussion.

On 23 September 2009, Mr Robert Fillon, the Permanent Representative of Monaco to the UN Office at Geneva, presented his country's responses to the UPR recommendations.<sup>31</sup> Monaco explained that it was hesitating or declining to ratify some international conventions because of the complexity and difficulty in meeting resulting obligations, such as regular reporting, due to the size of the country. It therefore requested more time to consider and prepare for ratification of the *International Convention for the Protection of all Persons from Enforced Disappearances*, to join the *International Labour Organization* (ILO) and ratify other relevant conventions, such as the *Rome Statute of the International Criminal Court* and the *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*. Monaco furthermore stated it would not sign the *Optional Protocol to the Convention against Torture* (OPCAT) as it did not see the need for an independent monitoring centre for prisons, since there are no detention centres in the country. Monaco also declined to include a definition of torture in its criminal legislation stating that this is already enshrined in the constitution. It also declined to establish a national human rights institution, as existing domestic institutions are already covering these functions. Mr Fillon concluded his statement by pointing out that Monaco would sign the *Convention on the Rights of Persons with Disabilities* persons in New York.

#### **Comments by member and observer States**

Algeria highlighted the continuing financial support of Monaco to developing countries and recommended that Monaco should join the ILO and sign the *Convention on the Protection of the Rights of All Migrant Workers and their Families* (CMW).

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

A joint statement by the International Lesbian and Gay Association (ILGA-Europe) and COC Nederlands commended Monaco for accepting recommendations to introduce and support public awareness raising campaigns to prevent discrimination including on grounds of sexual orientation.

The Council adopted the UPR outcome on Monaco.

### **Yemen**

On 24 September Yemen, represented by the Minister of Human Rights, Ms Huda Adullatef, appeared before the Council for the consideration of the UPR outcome on that country. Ms Abdullatef spoke in detail about a few of the recommendations made pointing out that the State had agreed to 11 of the 225 recommendations explaining that the remaining were still under discussion by the Government. Furthermore she highlighted recent developments following the review in May such as raising the age of marriage for females to 17 years, establishing a national committee to adapt legislation and ensure it is in line with international conventions, and members of civil society and the International Committee of the Red Cross are permitted to carry out visits in prisons and other places of detention. However Ms Abdullatef stressed that the State will not endorse the individual complaints procedures under international human rights treaties since it already has a number of national institutions and mechanisms that receive individual and group complaints under. In addition the Government did not accept the recommendation to extend a standing invitation to all special procedures but will consider it in the future.

#### **Comments by member and observer States**

States<sup>32</sup> that commented on the outcome generally commended Yemen for its efforts to promote and protect human rights and the high number of UPR recommendations that it accepted.

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<sup>31</sup> For Monaco's views on the recommendations see document [http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-3\\_E.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-3_E.pdf)

<sup>32</sup> Algeria, Egypt, Lebanon, China, Bahrain, Vietnam, Venezuela, Qatar, Cuba, Syria, Pakistan, Bahrain, United Arab Emirates.

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

The NGOs that spoke were often critical of the human rights situation in Yemen. Human Rights Watch and the Cairo Institute for Human Rights Study highlighted continued violation of some of the recommendations made citing violations of the rights to freedom of expression and of the press, arbitrary arrest of journalists, and the use of excessive force to deal with the protests and riots in Northern Yemen. These NGOs and Amnesty International also expressed concerns about violations committed in the context of the conflict in Sada. Human Rights Watch called on all parties to the conflict to respect international law and its prohibition against the targeting of civilians.

Egypt raised several points of order during the comments made by NGOs arguing that they should not be allowed to raise specific cases of human rights violations and should restrict their statements to general comments addressing issues contained the report. It further argued that the adoption of UPR outcomes is not the place to discuss country specific situations. The USA and Sweden disagreed with this interpretation and pointed out that NGOs make valuable contributions to the Council's work and should be given leeway to make their statements.

Amnesty International also expressed regret at Yemen's rejection of the recommendation to abolish the death penalty. It also sought clarification regarding the Government's position on recommendations on ensuring compliance with the Declaration on human rights defenders and on ensuring that anti-terrorism legislation complies with international law. The International Federation of Human Rights Leagues reiterated the latter recommendation.

The International Lesbian and Gay Association expressed concern that Yemen is one of the seven countries in the world that maintains the death penalty for consensual sexual acts between adults of the same sex. It asked the State to give serious thought to the decriminalisation of same sex relationships.

### **Concluding remarks**

In her closing statement Ms Abdullatef responded to the comments made by some stakeholders claiming there was no evidence to support these allegations. She explained that the Government has made attempts to end the conflict in the country and has set up dialogue with the rebels. Regarding the situation in the south of Yemen, she explained that care and assistance is provided to the people with the support of international bodies. Furthermore a national government in the south has been set up to study the demands of the people and respond to the legitimate claims and complaints made. She noted that every citizen has the right to seek redress through the law and the courts. Ms Abdullatef rejected claims that there were limitations on freedom of the press and opinion stressing that every citizen has the right to seek information without any restriction. She concluded by reiterating Yemen's full commitment to fill any gaps that may exist.

### **Chad**

The UPR outcome on Chad was adopted on 24 September. In response to the report of the Working Group, the Minister for Human Rights and Fundamental Freedoms, Mr Djasnabaille, stated that of the 112 recommendation made, Chad had formally accepted 85, postponed 14 and rejected 13. He also assured the Council that the rejected recommendations were nevertheless under consideration, or had already been implemented. In relation to specific recommendations made concerning vulnerable groups, combating impunity, access for the International Committee of the Red Cross (ICRC), child soldiers, refugees, and displaced persons, he stated that Chad has submitted replies in writing. He also took the opportunity to decry the lack of timely translation of the Working Group report. He promised the Council that the recommendations would be followed up 'by the end of the year'.

### **Comments by member and observer States**

A notable majority of African States participated in the dialogue, offering uniform praise for Chad's efforts thus far, and calling for more financial and technical assistance from the international community. South Africa and

Ghana reiterated the need to ensure translation of the Working Group's report in a timely fashion. The US raised more pertinent points, such as the need to redouble efforts to demobilise all child soldiers, end impunity, and ensure the independence of the judiciary. It also called for increased protection of journalists, including revision of press laws.

### **Comments by other stakeholders**

NGOs provided a more critical assessment, highlighting the rejection of important recommendations on abolishing the death penalty, ensuring access to prisons for ICRC and developing a legal definition of torture in line with the *Convention against Torture (CAT)*. Amnesty International was pleased with the level of cooperation by Chad and looked forward to seeing the State fulfilling its new commitments. Several NGOs asked about the progress made with investigating enforced disappearances following the February 2008 demonstrations. Human Rights Watch focused on the issue of child soldiers, and highlighted recent restrictions imposed on UNICEF attempting to demobilise such children. It also called on Chad to report to CEDAW as soon as possible, and extend a standing invitation to special procedures. The International Human Rights Association of American Minorities also encouraged the State to ratify the Optional Protocol to CAT, and highlighted the abnormally high levels of corruption and nepotism which characterise the present administration.

Chad expressed its thanks for all contributions but failed to address many of the specific issues raised. Mr Djasnabaille did however commit to protecting journalists and human rights defenders, saying that if any were found to be incarcerated, he would resign as Minister. He recognised the important role they play in upholding democratic functions and called upon the NGOs that spoke to provide the Government with names of those imprisoned.

### **Viet Nam**

The Vice Minister for Foreign Affairs, Mr Pham Binh Minh, presented Viet Nam's views on the UPR outcome. At the time of the Working Group's review, Viet Nam accepted 93 recommendations, pledged to examine two recommendations, explained that 5 recommendations had already been implemented, and rejected 46 recommendations.

Mr Minh commented on a number of key issues from the review. He explained that Viet Nam is working to revise its press law and develop new regulations that 'best suit the cultural values and traditions of the Vietnamese society and conforms to international law'. He underlined that Viet Nam does not have indigenous people as defined in international instruments and noted that the country did therefore not find it necessary to the ILO Convention 169 concerning Indigenous and Tribal People. However, Viet Nam would consider favourably acceding to the ILO Convention on forced labour and other relevant ILO conventions. Mr Minh also stated that some of the recommendations made did not reflect the situation in the country and explained that the cultural particularities of each nation are decisive in the development of its human rights institutions.

While Mr Minh explained that Viet Nam has extended invitations to five special procedures and assures the Council of cooperation with the special procedures, he did not seem to provide a clear response to the pending recommendations on inviting the Working Group on arbitrary detention. He also noted that Viet Nam is not able to abolish or place a moratorium on the death penalty. Viet Nam is studying and positively considering acceding to the Convention against Torture, the Convention on the Rights of Persons with Disability, and the Rome Statute of the International Criminal Court.

### **Comments from member and observer States**

Mostly Asian States spoke on the outcome welcoming Viet Nam's constructive engagement with the UPR<sup>33</sup> and its acceptance of the majority of recommendations.<sup>34</sup> Myanmar commended Viet Nam's openness regarding the challenges it faces. China underlined the country's achievements in nation-building while noting in general terms the many

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<sup>33</sup> China, Algeria, Thailand, Venezuela.

<sup>34</sup> Cuba, Russian Federation, Malaysia, Cambodia, Myanmar.

challenges that remain. Thailand stated that good legislation must be coupled with effective implementation to ensure human rights protection. In this regard, it highlighted the importance of human rights education and training. Malaysia noted Viet Nam's commitment to speed up law reform. In rather unrelated comments, Cuba stated that the country's social system had been chosen by its people.

### **Comments by other stakeholders**

There were significant differences in the views expressed by NGOs on the human rights situation in Viet Nam. Some NGOs commended its human rights record, including media freedom and freedom of religion, and argued that there should be no foreign imposition of ideas and that solutions should be suited to the national context.<sup>35</sup> Other NGOs expressed concerns about a number of human rights violations. Human Rights Watch in a strong statement questioned the Government's commitment to human rights based on its rejection of recommendations on freedom of expression, religious freedom, prohibiting torture, releasing prisoners of conscience, and imposing a moratorium on the death penalty.<sup>36</sup> It stated that the UPR outcome revealed a 'strategy of obfuscation and denial' rather than a real commitment to human rights.

HRW also noted that Viet Nam had refused to extend a standing invitation to the special procedures. FIDH regretted that the Government had refused to invite the Working Group on arbitrary detention. Amnesty International regretted Viet Nam's rejection of recommendations on repealing the military criminal code, introducing a moratorium on the death penalty, and releasing prisoners of conscience. It called for the release of all prisoners of conscience. Pen International also expressed concern about those imprisoned for holding opinions and noted that the Government should provide better access to information for its people.

In closing, Viet Nam expressed appreciation to all but only to 'some NGOs' for their objective comments. It commented on freedom of religion, the role of the press, and the situation of minority groups 'to provide a better understanding' of these issues. Viet Nam also underlined the need to take account of its national particularities and the Government's responsibility to do what is in the 'interest of the nation and the people'. It finally stated that the UPR should uphold the principles of cooperation and dialogue on the basis of equality and respect for national sovereignty.

### **General debate**

The general debate under Item 6 of the UPR was relatively brief in comparison to previous sessions, with no States using the opportunity to update the Council of efforts to implement recommendations.

Nigeria, on behalf of the African Group, stated that 100% participation to date showed that the UPR was being taken seriously, including also an increase in treaty ratifications, standing invitations and the creation of national institutions. It identified the general debate as an opportunity for States to exhibit best practice in providing voluntary updates and exchanges of views on how to improve the UPR. It also called for the disbursement of funds for the UPR Voluntary Trust Fund in order for least developed countries to benefit.

Sweden, on behalf of the European Union, also considered the UPR to be 'one of the most important mechanisms of the Council',<sup>37</sup> and commended States who had approached it self-critically.<sup>38</sup> It noted however that the responses to recommendations from 12 States in the current session had not been circulated in advance, and referred to the requirements under Council Resolution 5/1 that States under review inform the Council of their position on outstanding recommendations. It further encouraged States to explain their position on rejected recommendations.

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<sup>35</sup> Viet Nam Peace and Development Foundation, World Peace Council.

<sup>36</sup> These concerns were also raised by the International Federation of Human Rights Leagues (FIDH).

<sup>37</sup> Also Uruguay, Italy,

<sup>38</sup> Also the United States and Ukraine, who stated that the UPR 'cannot have a happy end without criticism and constructive recommendations', and the International Service for Human Rights.

Sweden, France and the United States also recognised civil society as a ‘key component in the process’ (Sweden), including follow-up and monitoring of implementation of recommendations. Italy stressed the need to guarantee NGO’s active participation in the adoption stage, and stressed the importance of meaningful national consultations with NGOs,<sup>39</sup> while the Republic of Korea highlighted the importance of national institutions in the process from their own positive experience.

Uruguay (on behalf of MERCOSUR) considered that follow-up was directly linked to the UPR’s objective of improving the situation of human rights on the ground, while Bangladesh felt that it was sufficient for States to report back on follow-up only at the next review as it was reasonable for States to take at least four years to adequately put measures in action.

Russia, Japan, Nigeria and France noted the ‘disturbing trend’ of non-availability of reports in all languages, and the latter insisted that all papers be available in all languages at least 15 days before each review, while Sweden noted that improvements were underway. Japan and Turkey also raised concern at the limit on registration on the speakers list, and stated its opposition to the proposal of the Secretariat to divide this according to regional groupings, as they opposed any regionalisation of the UPR. The United States, echoing a previous statement of the Republic of Korea, also took the view that all recommendations needed to be considered in order for the UPR to be genuinely ‘universal’, although Turkey was of the view that speaking time could not be reduced to below one minute. Russia, on the other hand, found the speakers list to be a ‘technical matter’ and therefore not urgent. Japan also expressed its wish that budgetary solutions related to the UPR are found in the Fifth Committee of the General Assembly, but was concerned that information regarding this shortage was not forthcoming, and so sought clarification of on this.

Only two NGOs spoke under the general debate. The International Service for Human Rights turned attention to the responsibility of States as members of the Human Rights Council to ensure that the primary objective of the UPR, the improvement of the human rights situation on the ground, is met through adequate follow-up to pending recommendations by States under review. It also noted that a number of recommendations were made that were contrary to States obligations under international law, or contributed nothing to improving the human rights situation, and it called on the President to issue a statement reminding States of their obligations to make recommendations in accordance with the basis of review. The Canadian HIV/AIDS Legal Network focused on the interruptions of Egypt in relation to NGOs right to speak under Item 6 on the consideration of reports, claiming that the State was overly restrictive in its misreading of Council *Resolution 5/1*, and claiming that ‘general comments’ precludes specific examples would ‘make a mockery of the process’. Egypt, unfortunately, was not present in the room to respond to these remarks, and the debate ended there.

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- 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’.

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<sup>39</sup> Also United States.

- Web site of the Office of the High Commissioner for Human Rights (OHCHR) on the 12<sup>th</sup> session of the Human Rights Council: <http://www2.ohchr.org/english/bodies/hrcouncil/12session>. For direct access to reports considered, check <http://www2.ohchr.org/english/bodies/hrcouncil/12session/reports.htm>.

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