



## Suggested recommendations to states included in the fifth round of Universal Periodic Review<sup>1</sup>

May 2009

### Recommendations to the government of Afghanistan

#### *The 2004 Constitution and the rule of law*

- To support the establishment of a Human Rights Unit in the Ministry of Justice to collaborate closely with the Afghan Independent Human Rights Commission and promote effective protection of human rights;
- To ensure that to the extent that traditional assemblies make quasi-judicial rulings, their procedures and decisions are in accordance with international standards of fairness, including the possibility of appeal to state courts and full equality for women;
- To establish a clear and appropriate legal framework with full respect for relevant procedural safeguards for all international forces operating in Afghanistan;
- To prohibit the National Directorate of Security (NDS) from detaining prisoners and to allow independent human rights monitoring of all detainees, including by the Afghan Independent Human Rights Commission, access to all places of detention and all detainees.

#### *The death penalty*

- To immediately impose a moratorium on executions, with a view to the complete abolition of the death penalty, in line with UN General Assembly resolutions 62/149 and 63/168;
- To commute without delay all death sentences;
- To restrict the imposition of the death penalty to only the most serious crimes;
- Pending the abolition of the death penalty, to ensure that in death penalty cases, the most rigorous internationally recognized standards for fair trial are respected, including in accordance with the *UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty*, adopted by the UN Economic and Social Council in resolution 1984/50 on 25 May 1984.

#### *Transitional justice and impunity*

- To implement the Transitional Justice Action Plan, in particular a truth-seeking mechanism to document past human rights violations alongside any judicial proceedings, and to establish an

<sup>1</sup> This document contains recommendations for the following states: Afghanistan, Chad, Chile, Comoros, Congo, FYR Macedonia, Malta, Monaco, Slovakia, Uruguay, Vanuatu, Vietnam and Yemen.

AMNESTY INTERNATIONAL

Advisory Panel for Appointments to bar those accused of having committed war crimes, crimes against humanity or serious human rights abuses from holding senior government posts;

- To vet candidates facing credible allegations of serious human rights abuse and links to armed groups, militias and the drug trade in advance of the presidential elections in 2009 and the parliamentary elections in 2010;
- To enact legislation to implement the Rome Statute of the International Criminal Court and to allow the state to fully co-operate with the International Criminal Court.

#### *International Criminal Court*

- To accede to the Agreement on the Privileges and Immunities of the International Criminal Court and implement it in national law.

#### *Freedom of expression*

- To fully and effectively investigate and prosecute those responsible for attacks on journalists, human rights defenders and others exercising their right to freedom of expression;
- To ensure that no government agencies, including the National Directorate of Security, violate the right to freedom of expression;
- To repeal or amend those provisions of the revised media law that restrict freedom of expression in violation of Afghanistan's constitution and international obligations.

#### *Women's human rights*

- To ensure prompt, impartial and effective investigation of all reports of violence against women, to bring to justice those responsible in fair trials, and to grant reparations to victims;
- To develop programs to recruit women police officers and to train staff to enable women to access administrative and judicial assistance;
- To build and ensure expert staffing of shelters for women fleeing domestic violence;
- To amend or abolish existing laws, including the Penal Code, and practices which discriminate against women, and to ensure that women are granted legal equality with men in respect of the right to freely choose a spouse, to enter into marriage, and to dissolve a marriage;
- To define as criminal acts violence against women and girls in the family, including sexual violence; the giving of girls and women in marriage as a means of dispute resolution; and rape, including marital rape and rape of children;
- To increase women's access to health services and to reduce maternal and infant mortality.

#### *Civilians caught in an escalating conflict*

- To work with international forces, including US-led Coalition forces and NATO-led International Security Assistance Forces (ISAF), to ensure full compliance with international humanitarian law, and to improve coordination with national forces in complying with these standards;
- To ensure that the National Directorate of Security does not hold any detainees (whether or not initially taken by NATO forces), and to ensure that to the extent that the NDS conducts investigations, these are in accordance with international law.

#### *Internally displaced people and returnees*

- To provide immediate assistance for displaced persons, including essential food and water, basic shelter, appropriate clothing and heating materials, as well as essential medical services and sanitation, in line with the *UN Guiding Principles on Internal Displacement*;
- To ensure free and safe passage of humanitarian assistance to internally displaced persons and refugees, especially during the winter months;

- To ensure that returnees have their land and property restituted and intervene effectively where they are unable to recover them.

## **Recommendations to the government of Chad**

### *International Criminal Court*

- To accede to the Agreement on the Privileges and Immunities of the International Criminal Court and implement it in national law.

## **Recommendations to the government of Chile**

### *National human rights mechanisms*

- To prioritize the development of a national human rights action plan through a broad consultative process in line with the recommendations in the Vienna Declaration and Programme of Action;
- To take all possible measures to expedite the legislative process to endorse the establishment of an independent national human rights institution in line with the Paris Principles.

### *Investigation, prosecution and reparation of past human rights violations*

- To nullify the 1978 Amnesty Law (Decree Law 2191) and other measures granting amnesty to alleged perpetrators of gross human rights violations;
- To make the statute of limitations inapplicable for crimes under international law and civil suits arising from those crimes, irrespective of the date of their commission;
- To award full reparations to victims of human rights violations and to their relatives, including those living outside of the country.

### *The International Criminal Court and other international criminal courts*

- To promptly ratify and fully implement the Rome Statute of the International Criminal Court;
- To ratify and fully implement the Agreement on the Privileges and Immunities of the International Criminal Court;
- To enact legislation implementing the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Inter-American Convention to Prevent and Punish Torture; the Geneva Conventions and Optional Protocols I and II, and the Convention on the Prevention and Punishment of the Crime of Genocide, to prohibit conduct proscribed in these treaties, in accordance with international law;
- To enact legislation on cooperation with other international criminal courts, in particular on surrendering persons allegedly responsible for crimes under international law.

### *Reform of Military Code of Justice*

- To bring the Military Code of Justice into line with international standards and the Inter-American Court on Human Rights ruling in *Palamara Iribarne v. Chile*;
- To eliminate the application of military jurisdiction to civilians;
- To ensure that human rights violations in which military personnel are implicated are tried in civilian courts;
- To abrogate the death penalty as a sanction in the Military Code of Justice.

### *Violence against women*

- To ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;
- To enact and enforce domestic legislation on violence against women;

- To publicly condemn violence against women and exercise due diligence to prevent, investigate and punish such acts, whether perpetrated by the state or by private individuals;
- To establish an effective system for registering cases of violence against women that activates mechanisms to treat and protect victims as well as investigate all complaints promptly and impartially;
- To uphold standards in the collection of evidence from victims of violence in line with the World Health Organization's *Guidelines for medico-legal care for victims of sexual violence*;
- To ensure that the collection of qualitative and quantitative data is standardized and disaggregated according to gender and other factors, and that it is open to verification. Further, to ensure that such data is collected, shared and published by all relevant government departments, and used by policy-makers to devise effective policies and programmes to address violence against women.

#### *Indigenous peoples*

- To implement without further delay the outstanding recommendations of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, including:
  - To revise sectoral legislation on land, water, mines and other sectors that may be in conflict with the provisions of the Indigenous Peoples Act, and to ensure that protection of the human rights of Indigenous Peoples takes precedence over commercial and economic interests;
  - To expand and expedite the work of the Land Fund managed by the National Corporation for Indigenous Development (*Corporacion Nacional de Desarrollo Indigena, CONADI*) for the acquisition of land for Indigenous peoples, including by substantially increasing its resources so that it can meet the needs of Indigenous families and communities;
  - To desist from outlawing or penalizing legitimate protest activities or social demands by Indigenous organizations and peoples. Charges for offences in other contexts, such as “terrorist threat” or “criminal association”, should not be applied to acts related to the social struggle for land and legitimate complaints of Indigenous peoples;
- To promptly derogate Law 18.314, known as the “Anti-Terrorist Law”;
- To ensure the full implementation of ILO Convention 169, relating to the input and participation of Indigenous peoples in the design, implementation and monitoring of any policy interventions that arise from it;
- To work constructively with Indigenous peoples to advance a national declaration that builds on existing international standards for the protection of Indigenous peoples’ rights, including the UN Declaration on the Rights of Indigenous Peoples;

### **Recommendations to the government of Comoros**

#### *International Criminal Court*

- To accede to the Agreement on the Privileges and Immunities of the International Criminal Court and implement it in national law.

### **Recommendations to the government of Congo**

#### *International Criminal Court*

- To accede to the Agreement on the Privileges and Immunities of the International Criminal Court and implement it in national law.

## **Recommendations to the government of the Former Yugoslav Republic of Macedonia**

### *Protection against discrimination*

- To introduce an anti-discrimination law in accordance with international and regional standards, to prohibit discrimination on all grounds and in all areas, including both public and private spheres, and to establish systems to monitor its implementation in practice;
- To ensure that victims of discrimination, including multiple discrimination, have access to effective judicial remedies.

### *Protection of economic and social rights of Romani people*

- To take immediate and effective measures to abide by the obligations under treaties to which Macedonia is party, to respect, protect and fulfil the rights of Roma, including by implementing the repeated recommendations by UN treaty bodies, including the adoption of *temporary special measures* in the fields of education and employment.

### *Torture and ill-treatment*

- To ensure that allegations of ill-treatment by law enforcement officers are promptly, thoroughly and impartially investigated and those found responsible punished;
- To establish an independent police oversight mechanism.

## **Recommendations to the government of Malta**

### *International Criminal Court*

- To promptly accede to the Agreement on the Privileges and Immunities of the International Criminal Court and implement it in national law;
- To withdraw the declaration made upon ratification of the Rome Statute, regarding pardon for crimes under the jurisdiction of the International Criminal Court.

## **Recommendations to the government of Monaco**

### *International Criminal Court*

- To promptly ratify the Rome Statute of the International Criminal Court, signed on 18 July 1998, and implement it in national law;
- To accede to the Agreement on the Privileges and Immunities of the International Criminal Court and implement it in national law.

## **Recommendations to the government of Slovakia**

### *Ethnic data collection*

- To systematically gather statistical information and data, disaggregated on the basis of gender and ethnicity, in relation to education, health, employment and other relevant areas, with due regard to European standards concerning the protection of personal data and the right to self-identification.

### *Right to education*

- To remove the category of “socially disadvantaged children” from the list of those with special educational needs and to decouple the term from “mental disability”;

- To amend the law to require that “socially disadvantaged pupils” be educated in integrated, mainstream elementary schools, unless they have a physical or proven mental disability. The law should also strictly and explicitly limit preparatory classes in special schools only for children with physical or serious mental disability;
- To ensure the provision of preparatory classes (so-called “zero classes”) and teaching assistants in all districts where a reasonable number of children, including Roma, require them. Such provision should be made compulsory through the new Schools Act;
- To ensure that all children currently in special schools and special remedial classes are regularly assessed to ensure their swift reintegration in mainstream education when appropriate and provided with appropriate additional support to facilitate their re-integration;
- To adopt the necessary legal or administrative measures to redress any erroneous placement of children in special schools, and to prevent and sanction all forms of racial segregation in education;
- To review the mandate of the Slovak National Centre for Human Rights in order to enable it to monitor anti-discrimination legislation and its implementation, and to investigate individual complaints, to initiate its own investigations, and to recommend remedies in individual cases of violations of the right to education.

#### *Housing*

- To finalize without delay the process of ratification of the Revised European Social Charter, to make a declaration that it considers itself bound by Article 31 (the right to housing), and to accept the procedure provided for in the Additional Optional Protocol providing for a system of collective complaints;
- To end forced evictions of Roma and to take measures to prevent their recurrence;
- To facilitate the effective participation of Romani communities in determining the upgrading or relocation of their communities to give effect to their rights to adequate housing, water and sanitation;
- To ensure that any agreement on re-housing of Roma complies with international human rights standards, including by prioritizing those who lack access to essential levels of housing, water and sanitation or security of tenure in order to protect them from forced eviction or other interference. Any re-housing, agreed in consultation with those affected, should be to locations with adequate housing, situated close to employment and services such as education, and seek to combat segregation.

#### *Forced sterilization*

- To ensure impartial, thorough and effective investigations into allegations of forced sterilization of Romani women in Slovakia;
- To fully examine the circumstances under which consent to sterilization was given, noting that according to international standards and international medical associations a signature alone is not *de facto* evidence of full and informed consent;
- To ensure that the victims can file for and promptly receive appropriate compensation, including by giving them or their legal representatives unimpeded access to all appropriate information.

### **Recommendations to the government of Uruguay**

#### *Impunity*

- To abolish the 1986 Amnesty Law (Ley 15.848, *de Caducidad de la Pretensión Punitiva del Estado*) and to ensure that perpetrators of crimes under international law are brought to justice.



## **Recommendations to the government of Vanuatu**

### *Constitutional protection from discrimination of marginalized groups*

- To amend Section 5 of the Constitution by adding “disability, health, economic status and sexual orientation” as prohibited grounds for discrimination;
- To add a clear provision to the Constitution that it prevails (particularly the human rights chapter) in case of conflict between customary law and domestic legislation.

### *Discriminatory legislation on the right to citizenship*

- To amend the Citizenship Act without delay so that it complies with the Constitution as well as Vanuatu’s obligations under the Convention on the Elimination of All Forms of Discrimination against Women.

### *Gender discrimination*

- To amend all laws which discriminate against or perpetuate the discrimination and marginalization of women;
- To ensure that there is not only legal equality (equality in legislation), but also de-facto equality, in line with Vanuatu’s obligations under the Convention on the Elimination of All Forms of Discrimination against Women;
- To allocate resources to provide effective and ongoing human rights and legal training to judicial officers in the lower courts (magistrates and Island courts).

### *Ratification and implementation of international human rights treaties*

- To complete in Parliament the process of ratification of the International Covenant on Civil and Political Rights, in line with the requirements of the Constitution;
- To promptly enact enabling legislation to ensure that the principles enshrined in the treaties to which Vanuatu is a party are applicable in the courts;
- To accede to the International Covenant on Economic, Social and Cultural Rights and to enact laws through Parliament to reflect the principles of this in domestic laws.

### *Violence against women*

- To ensure greater awareness across the country of domestic violence and the means to end such violence;
- To fully implement the Family Protection Act and to allocate adequate resources for its effective implementation;
- To work with the *Malvatumauri* (Council of Chiefs) to raise awareness of the revocation of the practice of bride price;
- To provide ongoing training for police and other relevant departments on effective ways to address domestic violence.

### *International Criminal Court*

- To accede to the Rome Statute of the International Criminal Court and implement it in national law;
- To accede to the Agreement on the Privileges and Immunities of the International Criminal Court and implement it in national law.

## **Recommendations to the government of Vietnam**

### *Protection of human rights in national legislation*

- To repeal or amend provisions in the 1999 Penal Code to ensure that ambiguous provisions relating to national security are clearly defined or removed, so they cannot be applied in an arbitrary manner to stifle legitimate dissent, debate and freedom of expression;
- To repeal provisions in the 1999 Penal Code allowing house arrest or probation to violate the rights to freedom of expression and assembly;
- To repeal or amend legislation providing for the arbitrary detention of individuals without appearing before a court, including in psychiatric institutions, for “re-education”, or under house arrest, so that it cannot be used to stifle peaceful dissent, opposition or freedom of expression;
- To remove all restrictions and arbitrary interference on the operation and use of the Internet that violate the right to freedom of expression, including recently enacted regulations on blogging which stipulate lengthy prison terms for disseminating or providing links to information critical of the government; and to end practices, such as censorship and surveillance.

### *The death penalty*

- To immediately impose a moratorium on executions, with a view to complete abolition of the death penalty, in line with UN General Assembly resolutions 62/149 and 63/168;
- To commute all outstanding death sentences;
- To reduce the number offences liable for the death penalty, as proposed by the government in July and November 2008;
- To make public all information about the imposition and use of the death penalty, including information on executions carried out;
- To encourage discussion among National Assembly members and other appropriate legislative institutions on abolition of the death penalty for all crimes.

### *Restrictions on freedom of expression and assembly*

- To take all necessary measures to end restrictions on the rights to freedom of expression and peaceful assembly, in accordance with international human rights standards;
- To ensure that police officers are aware of their duty to protect the human rights of all individuals, including by ensuring that they are able to exercise their rights to freedom of expression and peaceful assembly without discrimination;
- To release all prisoners of conscience immediately and unconditionally, including 30 persons sentenced to prison terms since November 2006;
- To invite the UN Special Rapporteur on the right to freedom of opinion and expression, and the UN Working Group on arbitrary detention to visit Viet Nam.

### *Persecution of religious and ethnic groupings*

- To end restrictions on the right to practice one’s religion of choice without discrimination, in accordance with Article 69 and 70 of the 1992 Constitution and international human rights standards;
- To ensure that relevant authorities, including at the local level, are aware of their duty to protect individuals’ right to freedom of religion;
- To end harassment and ill-treatment of ethnic minorities and restriction of their rights to freedom of expression, assembly and association, in particular Montagnards in the Central Highlands and Khmer Krom in An Giang province;

- To review the cases of an unknown number of Montagnards still serving lengthy prison sentences in connection with protests in the Central Highlands in 2001 and 2004, and to release those held solely for peacefully exercising their rights to freedom of expression and assembly, in contravention of international human rights standards.

#### *Independent monitoring of the human rights situation*

- To permit and cooperate with international and domestic non-governmental organizations and groups to carry out human rights monitoring activities in Viet Nam, independently and without hindrance or threats.

#### *International Criminal Court*

- To accede to the Rome Statute of the International Criminal Court and implement it in national law;
- To accede to the Agreement on the Privileges and Immunities of the International Criminal Court and implement it in national law.

### **Recommendations to the government of Yemen**

#### *Gender discrimination*

- To ensure that all laws, starting with those currently under discussion, are free from discrimination against women and unequivocally prohibit violence against women.

#### *Domestic law and international standards*

- To ensure that the Counter Terrorism Law, the Money Laundering and Financing of Terrorism Law and the Penal Code do not criminalize the legitimate exercise of the rights to freedoms of expression, association and assembly or of other rights, and that these laws and amendments to existing laws conform fully with Yemen's obligations under international human rights standards.

#### *The death penalty*

- To prohibit the imposition of the death penalty on persons under the age of 18 at the time of their alleged crime and to ensure that executions of juvenile offenders are not carried out;
- To review existing and proposed laws to significantly reduce the use of the death penalty, by progressively reducing the number of capital offences, with the eventual aim of abolition of the death penalty;
- To immediately impose a moratorium on executions, with a view to complete abolition of the death penalty, in line with UN General Assembly resolutions 62/149 and 63/168;
- To commute without delay all death sentences;
- Pending the abolition of the death penalty, to ensure that in death penalty cases, the most rigorous internationally recognized standards for fair trial are respected, including in accordance with the *UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty*, adopted by the UN Economic and Social Council in resolution 1984/50 on 25 May 1984.

#### *International Criminal Court*

- To promptly ratify the Rome Statute of the International Criminal Court, signed on 28 December 2002, and implement it in national law;
- To accede to the Agreement on the Privileges and Immunities of the International Criminal Court and implement it in national law.

