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United Nations Human Rights Council Universal Periodic Review: The fourth round of reviews yields mixed results

At the end of the fourth session of the Universal Periodic Review (UPR) Working Group, a total of 64 states have been reviewed -- a third of the UN global membership. Since the UPR began less than a year ago, the Human Rights Council has now reviewed the human rights record of more states than its predecessor, the Commission on Human Rights, ever did, including of states that have never before come under scrutiny by a UN human rights political body. In this sense the UPR is a true innovation.

When the concrete review outcomes are measured against the stated objective of the mechanism of "improving the situation of human rights on the ground", the fourth round shows mixed results. While some of the reviews yielded important outcomes for human rights, others were no more than missed opportunities. Some even appeared to have been so severely manipulated by the reviewed state to have become almost farcical. However, those twisted reviews say far more about the flawed commitment to human rights of the states concerned than they do about the UPR.

The February round of reviews included countries whose human rights record is a cause of very serious concern to Amnesty International, although there is clearly room for improvement in all of the sixteen countries reviewed.¹

Several reviews saw a robust and fruitful dialogue during which key human rights concerns were highlighted and recommendations made and accepted, which went to the heart of these concerns.

During the review of **Canada's** human rights record, a wide range of pressing human rights challenges emerged. These included the rights of Indigenous peoples, poverty and homelessness, enforcing economic, social, and cultural rights; protection of the human rights of vulnerable groups, and counter-terrorism practices. In line with an emerging trend in the UPR Working Group, Canada has not yet indicated which recommendations it will accept. Amnesty International calls on the government to establish a credible process to consider these recommendations, which brings in key stakeholders, including Parliament, Indigenous peoples, and non-governmental organizations.

In a welcome departure from the general thrust of its national report, **Germany's** presentation in the UPR Working Group was more reflective of the human rights challenges in the country. States from all regional groups made substantive recommendations, which Germany has still to consider, among them the need to acknowledge the full applicability of the International Covenant on Civil and Political Rights to persons subject to its jurisdiction both at home and abroad, to ensure full compliance with international human rights standards in the context of counter-terrorism measures, to prevent the use of excessive force by law enforcement officials, and to ensure access for irregular migrants to primary health care, education and judicial authorities. Amnesty International was disappointed, however, that other key concerns were

¹ The following countries were reviewed in the fourth round of reviews under the UPR, which took place 2-13 February 2009: Azerbaijan, Bangladesh, Cameroon, Canada, China, Cuba, Djibouti, Germany, Jordan, Malaysia, Mauritius, Mexico, Nigeria, Russian Federation, Saudi Arabia and Senegal.

not discussed or only in vague general terms, such as the increasing requests by Germany for “diplomatic assurances” in an attempt to circumvent the absolute prohibition of *refoulement* to torture and other ill-treatment, as well as the involvement of German authorities in the US-led rendition programme.

Although it was regrettable that **Jordan’s** national report was available only days before the review, and only in Arabic, which made a well-informed dialogue in the UPR Working Group difficult, the review of Jordan was conducted in a substantive manner by both Jordan and reviewing states. This was evident in the process followed by Jordan to prepare the national report, which had included consultation with civil society, and in the comments, both positive and negative, and recommendations by member states. Of particular importance were recommendations to end discrimination and violence against women, to combat torture and other ill-treatment, and to strengthen the protection of the human rights of migrant workers, including domestic workers. Amnesty International welcomes Jordan’s stated support of these key recommendations and urges their prompt and full implementation.

As to be expected by one of the key architects of the Council and its modalities, **Mexico** set a high standard for government engagement with the UPR. Following the review, Mexico stated its support of 83 recommendations which addressed key human rights concerns, including the need for constitutional reform to recognize international human rights obligations, improved measures to end violence against women, action to end impunity, protection of human rights defenders and journalists, and action to tackle inequality and discrimination of marginalized groups, including migrants and Indigenous peoples. Another eight recommendations are to be further examined; however, none of the recommendations made by other states were rejected. Mexico committed to addressing the recommendations within the framework of the National Program on Human Rights, to foster their implementation in cooperation with the Office of the High Commissioner for Human Rights and to involve civil society and human rights institutions in the follow-up to the review. Amnesty International will be monitoring closely the implementation of these recommendations as Mexico has in the past made commitments at the international level which have not led to real change at the national level.

Amnesty International welcomes **Nigeria’s** statement in the UPR Working Group that it continues to exercise a self-imposed moratorium on the death penalty and urges the government to take steps to formalize this as soon as possible, as recommended by a large number of states during the review. Amnesty International also welcomed that in the lead up to the review, Nigeria signed the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Prevention and Punishment of the Crime of Genocide, and the Optional Protocol to the Convention Against Torture, and ratified the Optional Protocol to the Convention on the Rights of Persons with Disabilities. It was a cause of concern, however, that the government appeared to be unaware of lesbian, gay, bisexual or transgender groups in Nigeria, especially in light of a draft law banning ‘same gender marriage’ currently before the National Assembly. Several states urged Nigeria to reject this draft law and all other legislation that discriminates based on gender and sexual orientation. Amnesty International urges Nigeria to support these and other key recommendations made during the review when it indicates its response prior to the adoption of its UPR outcome by the Human Rights Council in June 2009.

During the review of **Russia**, key human rights concerns were raised, including calls by many states for thorough investigations into the recent murders of independent journalist Anastasia Baburova and human rights lawyer Stanislav Markelov, and for the perpetrators of these crimes to be brought to justice. States also raised the need to strengthen initiatives to combat extremism and hate crimes against national and ethnic minorities. Serious concerns were also raised about human rights violations in the North Caucasus, including torture, enforced disappearances and unlawful killings. Russia has yet to indicate which of these recommendations enjoy its support; its response in time for the adoption by the Human Rights Council of the outcome of the review will be an important indication of Russia’s commitment to human rights.

In other reviews, the state under review politicized the discussion by going to great lengths to focus the review on empty rhetoric and by systematically rejecting those recommendations that were aimed at ending serious human rights violations.

The review of **China** was a welcome opportunity for the UN to engage in discussion of the human rights situation in that country. During the review, a number of key recommendations were made to China, including to reconsider its use of the death penalty, to develop its judicial system, and to end the use of punitive administrative detention. Amnesty International was very disappointed, however, that China was unable to support by far the majority of these recommendations and instead threw its weight behind a long list of weak and vague calls to promote human rights, to enhance the quality of life of its people and the status of women and similar unquantifiable recommendations. It was also regrettable that only a handful of reviewing states were willing to raise some of the most serious human rights issues in the country, such as the repression and persecution of Tibetans, Uighurs, and religious groups.

For the review of **Cuba** an unprecedented number of stakeholder submissions were made, the majority of which were almost identical, and a long list of friendly nations saturated the three-hour dialogue with praise for the Cuban government. Cuba supported most of the recommendations from friendly states which focused mainly on strengthening the country's international cooperation efforts in the health and education sectors. A series of recommendations are yet to be examined by Cuba which, if adopted and implemented, would significantly contribute to improving the human rights situation in Cuba. Among these are the ratification and implementation of major human rights instruments, cooperation with the Council's Special Procedures, access for international organizations, reducing the scope of the death penalty and the establishment of a human rights institution in compliance with the Paris Principles. However, Amnesty International deeply regrets that Cuba systematically rejected key recommendations for the unconditional release of prisoners of conscience and human rights defenders and the amendment of legal provisions restricting the rights to freedom of expression, assembly and association.

Most interventions during the review of **Malaysia** praised the government for reducing poverty, for its high budget allocation for education, and for having created the human rights commission, SUHAKAM. Amnesty International was disappointed, however, that Malaysia rejected a substantial number of recommendations, including to accede to core international human rights treaties, to develop a framework for the protection of migrant workers, refugees and asylum-seekers; to repeal laws that allow for preventive detention and criminalize homosexuality; to amend laws restricting the rights to freedom of expression and assembly in line with international human rights standards; and to abolish the death penalty starting with a moratorium on executions. Such a timid approach to the UPR does not serve well the improvement of the situation of human rights in Malaysia.

In carrying the UPR forward, the Council and its member and observer states must build on the good practice that is developing both for states under review and for states doing the reviewing, to hone the UPR's potential to improve the situation of human rights on the ground. Many reviewing states are focusing their interventions in the UPR Working Group on key human rights challenges and making specific recommendations for action to strengthen the protection of human rights in the country reviewed. At the same time, many states under review are organizing early and comprehensive consultation both within government and with civil society during the drafting of the national report and some include voluntary pledges to protect human rights in their national reports. States committed to the UPR are also endeavouring to accept as many recommendations as possible, and to have an effective national process to facilitate their implementation.

As the UPR becomes more firmly consolidated as a key tool of the Council, it is important to bear in mind that notwithstanding the positive outcome of some reviews, the Council also has other important tools at its disposal. These include review of human rights situations under

dedicated items, such as Item 4, Human rights situations that require the Council's attention, and Item 10, Technical assistance and capacity-building, as well as the Council's Special Procedures. It is crucial to the effectiveness of the Council that states use all of these tools in creative and strategic ways to maximise action to promote and protect all human rights in all countries.

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