



## Suggested recommendations to States considered during the 27<sup>th</sup> session of the Universal Periodic Review, 1 – 12 May 2017

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### **RECOMMENDATIONS TO THE GOVERNMENT OF ALGERIA**

#### **FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY**

- Release all individuals held solely for the peaceful exercise of their rights to freedom of expression, assembly and association;
- Amend legislation that criminalizes the rights to freedom of expression and peaceful assembly, including Article 97 of the Penal Code prohibiting “unarmed gatherings”, Article 144 on “offending” public officials, Article 144 bis 2 on “offending the Prophet” and “denigrating the creed and precepts of Islam”, and Article 146 on “offending public bodies”;
- Lift undue restrictions on print media and privately owned television and radio stations by amending the Law on Information and the Law on Audio-visual Activity;
- Repeal Law 12-06 on Associations and elaborate the new organic law on associations in conformity with applicable international human rights standards.

#### **WOMEN'S RIGHTS AND GENDER-BASED DISCRIMINATION**

- Amend provisions in the Penal Code and Family Code that discriminate on the basis of gender and abrogate Articles 326 and 338 of the Penal Code;
- Decriminalize same-sex sexual relations by repealing Article 339 of the Penal Code;
- Adopt a comprehensive law to combat gender-based violence, in close cooperation with national human rights organizations;
- Strengthen access to sexual and reproductive healthcare and support services for survivors of sexual violence.

#### **IMPUNITY FOR HUMAN RIGHTS VIOLATIONS AND ABUSES**

- Repeal the provisions of Law No. 06-01 of 2006 that provide impunity from prosecution to the security forces and members of armed groups and that criminalize public criticism of the conduct of the security forces;

- Conduct full, impartial and independent investigations into all allegations of crimes under international law and, where sufficient admissible evidence exists, prosecute those responsible in fair trials without recourse to the death penalty.

#### **COUNTER-TERROR AND SECURITY**

- Amend the Code of Criminal Procedure to ensure its compliance with international law and standards on the administration of justice and the protection of detainees, particularly with regard to detainees' access to their lawyers, families and independent medical practitioners;
- Ensure that existing legal safeguards are respected in practice and that no detainee is held incommunicado;
- Grant independent human rights groups unhindered access to detention centres and prisons.

#### **REFUGEE AND MIGRANT RIGHTS**

- Protect all migrants and refugees from violence without discrimination based on their migration status and bring those suspected to be responsible for any such violence to justice in fair trials without recourse to the death penalty;
- Abolish or amend Article 175 bis of the Penal Code, which criminalizes "illicit" exit from Algeria using forged documents or through locations other than official border exit ports, and ensure that any violations of migration legislation are treated as administrative offences rather than criminal offences;
- Adopt national legislation implementing the 1951 Convention relating to the Status of Refugees and its 1967 Optional Protocol, as well as other international law and standards for the protection of persons in need of international protection;
- Grant protection to refugees determined and recognized as such by UNHCR.

#### **THE DEATH PENALTY**

- Commute all death sentences with a view to abolishing the death penalty for all crimes;
- Ensure that the death penalty is not under any circumstances imposed in violation of the guarantees provided for in Article 6 International Covenant on Civil and Political Rights;
- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

#### **COOPERATION WITH INTERNATIONAL HUMAN RIGHTS EXPERTS**

- Issue and honour a standing invitation to the UN Special Procedures and act promptly on their recommendations and communications;
- Grant visas without delay to representatives of international human rights organizations seeking to visit Algeria.

#### **INTERNATIONAL JUSTICE**

- Promptly ratify the Rome Statute of the International Criminal Court, signed on 28 December 2000, and implement it into national law;
- Accede to the Agreement on the Privileges and Immunities of the International Criminal Court, without making any reservation or declaration amounting to reservations;
- Promptly accede to the 1968 Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, without making any reservation, and implement it fully into national law.

#### **RATIFICATION OF INTERNATIONAL TREATIES**

- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance, signed on 6 February 2007, without making any reservation, and recognize the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims or other states parties;

- Ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities;
- Become party to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and opt-in to the inquiry and inter-state mechanisms; the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure;
- Promptly accede to and implement the Arms Trade Treaty, with particular attention to Article 6 on Prohibitions and Article 7 on Export and Export Assessment, which prohibit the transfer of arms that could be used to commit or facilitate serious violations of international human rights and humanitarian law.

## **RECOMMENDATIONS TO THE GOVERNMENT OF BAHRAIN**

### **FOLLOW UP TO THE PREVIOUS REVIEW**

- Ensure the full implementation of all the recommendations by the Bahrain Independent Commission of Inquiry, in particular ensuring thorough, impartial and independent investigations into all human rights violations and abuses committed during the uprising in 2011, including into superior responsibility, and immediately and unconditionally releasing all prisoners of conscience;
- Allow international NGOs to visit Bahrain and to carry out their human rights work without restrictions, including by abolishing the current five-day limit for such visits.

### **HUMAN RIGHTS INSTITUTIONS**

- Ensure the independence and impartiality in practice of the national human rights institutions, in particular the Special Investigations Unit, the Ombudsman of the Ministry of Interior and the Ombudsman of the National Security Agency;
- Ensure that any detainees are fully protected against torture and other ill-treatment, ensuring that they are moved to other facilities whenever appropriate and any state officials accused of torture or other abuse of detainees are immediately suspended pending investigation;
- Ensure confidentiality and protection of victims from reprisals during and following the conduct of their investigations, including when meeting victims and witnesses in detention and that those found breaching confidentiality will be held accountable;
- Ensure accountability for all recorded cases of human rights violations, including those mentioned in the BICI report, referring to trial, where appropriate, officers of all ranks including those with superior responsibility;
- Ensure that all SIU investigations are conducted promptly and strictly follow the methods set out in the Istanbul Protocol, in particular recording without delay any statements from witnesses;
- Set up and clarify publicly a reasonable time standard for investigating and deciding outcomes and regularly communicating full and adequate details, including any SIU investigation and outcomes to complainants.

### **CRACKDOWN ON OPPOSITION GROUPS**

- Immediately and unconditionally release prisoners of conscience Sheikh 'Ali Salman and Fadhel Abbas Mohamed Mahdi held for exercising their right to freedom of expression;
- Allow opposition party members and leaders to exercise their rights to freedom of expression, association and peaceful assembly, in line with international human rights law.

### **LAWS ON POLITICAL ASSOCIATIONS**

- Repeal or amend all laws that unduly restrict the activities of political associations, including Decree 31 of 2013, Law 34 of 2014, and Law 26 of 2015.

#### HARASSMENT AND ATTACKS AGAINST HUMAN RIGHTS DEFENDERS

- Immediately and unconditionally release all prisoners of conscience imprisoned solely for exercising their rights to freedom of expression, association and peaceful assembly;
- Lift travel bans restricting individuals' right to freedom of movement, association and expression.

#### RESTRICTIONS ON FREEDOM OF PEACEFUL ASSEMBLY

- Immediately lift the ban on peaceful protests in Manama and guarantee the right to peaceful assembly.

#### REVOCAION OF CITIZENSHIP AND FORCED EXILE

- End the practice of arbitrarily revoking citizenship, especially where this renders individuals stateless and forces them into exile;
- Reinstate the citizenship of those arbitrarily stripped of their nationality, including those who had their nationality revoked in November 2012 and January 2015.

#### UNFAIR TRIALS, TORTURE AND OTHER ILL-TREATMENT

- Ensure that all trials are conducted in line with international fair trial standards, including by ensuring prompt access to legal assistance, equality of arms between the prosecution and the defence, and thorough investigations into allegations of torture in pre-trial detention.

#### THE DEATH PENALTY

- Commute all death sentences and immediately establish an official moratorium on executions with a view to abolishing the death penalty for all crimes.
- Ensure that the death penalty, is not under any circumstances, imposed in violation of the guarantees provided for in Article 6 of the International Covenant on Civil and Political Rights;
- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

#### INTERNATIONAL JUSTICE

- Promptly ratify the Rome Statute of the International Criminal Court, signed on 11 December 2000, and implement it into national law;
- Accede to the Agreement on the Privileges and Immunities of the International Criminal Court, without making any reservation or declaration amounting to reservations;
- Promptly accede to the 1968 Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, without making any reservation, and implement it fully into national law;
- Adhere to the International Convention for the Protection of All Persons from Enforced Disappearance, without making any reservation, and recognize the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims or other states parties.

#### RATIFICATION OF INTERNATIONAL TREATIES

- Become party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; the first and second Optional Protocols to the International Covenant on Civil and Political Rights; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and opt-in to the inquiry and inter-state mechanisms; the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Optional Protocol to the Convention on the Rights of the Child on a communications procedure; and the Optional Protocol to the Convention on the Rights of Persons with Disabilities;

- Promptly ratify and implement the Arms Trade Treaty, with particular attention to Article 6 on Prohibitions and Article 7 on Export and Export Assessment, which prohibit the transfer of arms that could be used to commit or facilitate serious violations of international human rights and humanitarian law.

## **RECOMMENDATIONS TO THE GOVERNMENT OF BRAZIL**

### **EXTRAJUDICIAL EXECUTIONS BY SECURITY FORCES**

- Implement a plan, with concrete goals and milestones, to reduce homicides in the country, especially among black youth, and reduce gun violence and extra-judicial executions by the security forces;
- Repeal any proposals to revoke the “Disarmament Bill”, Law 10.826 from December 2003;
- Carry out thorough, independent and impartial investigations into all homicides, including those that can be attributed to police forces, and bring all those suspected of criminal responsibility to justice in fair trials before ordinary civilian courts;
- Approve proposed law PL 4471/2012, aimed at ending extra-judicial executions by the police and establishing effective oversight and accountability mechanisms to curb the unnecessary and excessive use of force by the security forces;
- Incorporate into national law international principles and standards on the use of force in law enforcement, in particular those set out in the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
- Ensure that the military police adopts – and makes public – operational protocols for the use of force and firearms that comply with international law and standards, and provide regular training to officers in the use of these protocols.

### **TORTURE AND OTHER ILL-TREATMENT, PRISON CONDITIONS AND THE JUVENILE JUSTICE SYSTEM**

- Implement the recommendations by the UN Special Rapporteur on Torture and the Subcommittee on the Prevention of Torture, following their visits to Brazil in 2015;
- Fully implement the National System to Prevent and Combat Torture and guarantee its independence in accordance with OPCAT, and implement the recommendations made by the National Mechanism to Prevent and Combat Torture;
- Reject the proposed constitutional amendment PEC 171 which seeks to lower the age at which children can be tried as adults from 18 to 16 years.

### **FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY**

- Reject the introduction of any new laws that criminalize peaceful protest or violate the rights to freedom of expression and peaceful assembly;
- Put in place clear and effective public accountability mechanisms to investigate allegations of human rights violations by all security forces responsible for policing public protests, and ensure that those responsible for human rights violations are subject to disciplinary and criminal proceedings;
- Ensure that the military and civil police, as well as other security forces, receive adequate and effective training in the policing of public demonstrations, including on the appropriate use of “less lethal weapons” and on international standards relating to the use of force.

### **HUMAN RIGHTS DEFENDERS**

- Immediately restore the National Programme of Protection for human rights defenders, including by reinstating suspended agreements and designating adequate human, institutional and financial resources;

- Fully recognize and support human rights defenders, including Indigenous Peoples' representatives, and protect them and their communities from death threats, attacks and killings;
- Ensure that the deaths of human rights defenders are promptly and thoroughly investigated, and that those found to be responsible are brought to justice;
- Implement the 1988 Federal Constitution provisions on agrarian reform, particularly those stating an obligation to assure land rights aiming at social and sustainable development purposes, and comply with the social function of property and the procedures for expropriation based on "social interest for agrarian reform, if the property is not fulfilling its social role";
- Establish consultation mechanisms with human rights defenders and the civil society organizations working to support them.

#### **INDIGENOUS PEOPLES**

- Implement the recommendations by the UN Special Rapporteur on the rights of Indigenous Peoples following her visit in March 2016;
- Ensure that Indigenous Peoples are protected from threats, attacks and forced evictions;
- Ensure that killings of Indigenous leaders are promptly and thoroughly investigated and those responsible brought to justice;
- Expedite the demarcation process and transfer of lands belonging to Indigenous communities in accordance with constitutional obligations;
- Ensure the National Indian Foundation (*Fundação Nacional do Índio*) has the necessary resources and political independence to carry out its work effectively, particularly relating to demarcation of Indigenous lands;
- Reject the proposed constitutional amendment PEC 215, and any other legislative proposals which seek to undermine the constitutional requirement to demarcate and transfer Indigenous Peoples' lands.

#### **INTERNATIONAL JUSTICE**

- Promptly accede to the 1968 Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, without making any reservation, and implement it fully into national law;
- Recognize the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims or other states parties.

#### **RATIFICATION OF INTERNATIONAL TREATIES**

- Ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure;
- Become party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and opt-in to the inquiry and inter-state mechanisms;
- Promptly ratify and implement the Arms Trade Treaty, with particular attention to Article 6 on Prohibitions and Article 7 on Export and Export Assessment, which prohibit the transfer of arms that could be used to commit or facilitate serious violations of international human rights and humanitarian law.

## **RECOMMENATIONS TO THE GOVERNMENT OF FINLAND**

### **THE NATIONAL HUMAN RIGHTS FRAMEWORK**

- Grant adequate human and financial resources to the Human Rights Centre, which is part of the National Human Rights Institution;
- Complete the National Action Plan on Fundamental and Human Rights with adequate resources;
- Systematically assess the human rights impact of all bills, budget and policy proposals, and other government activities, prior to their adoption.

### **REFUGEE AND MIGRANT RIGHTS**

- Ensure the right of asylum-seekers to a fair asylum determination process, including by providing free legal assistance at all stages of the process;
- Revise Section 6 of the Aliens Act to ensure that the best interests of the child shall be a primary consideration in all matters relating to children, in compliance with Article 3 of the Convention on the Rights of the Child;
- Prohibit the detention of children and families with children solely on the grounds of their migration status;
- Ensure that any measure restricting the liberty of asylum-seekers or migrants, including detention, is lawful and necessary in the circumstances of each individual case and proportionate to the aim pursued;
- Develop genuine alternatives to the detention of asylum-seekers and migrants;
- Provide asylum-seeking children and children in detention with effective access to education;
- Ensure that refugees and other beneficiaries of international protection can enjoy their right to family life without discrimination, by repealing the amendments to the Aliens Act on family reunification, refraining from further restrictions of the law, and facilitating the family reunification application process.

### **VIOLENCE AGAINST WOMEN**

- Establish a sufficiently resourced coordination unit, a national action plan and adequate resources for the implementation of the Istanbul Convention;
- Ensure that women victims of trafficking are recognized as such by the relevant authorities and provided with appropriate protection and assistance;
- Provide systematic, specialized training and written guidelines to professionals who may come in contact with victims of human trafficking in the course of their work;
- Amend the Aliens Act to ensure that migrants who sell sex are not targeted under the law and can engage with the authorities without threat of deportation and that potential victims of human trafficking, who are non-EU citizens, are provided protection and not removed from the country;
- Define rape as a crime of sexual violence in the Penal Code, premised on the absence of consent rather than the degree of violence or threat used by the perpetrator;
- Facilitate access to justice for victims of rape and other sexual violence to ensure that more cases of rape and sexual violence are reported and prosecuted in court.

### **DISCRIMINATION AGAINST TRANSGENDER AND INTERSEX PEOPLE**

- Revise the Trans Act by abolishing the need for sterilization, other medical treatment, and a mental health diagnosis, as requirements for a person's legal recognition of their gender identity;
- Develop a gender recognition procedure that is quick, transparent, based on self-determination, and available irrespective of age, medical or financial status;
- Ensure that medical procedures performed on intersex infants and children are premised on the best interests of the child.

#### **HUMAN RIGHTS EDUCATION**

- Make human rights education mandatory for all teacher trainees and include participation and practical skills for teacher trainees to enable them to respect human rights when teaching;
- Provide in-service training for all teachers to acquire the necessary skills in human rights education in order to implement the requirements of the new national core curriculum for basic education.

#### **COUNTER-TERRORISM**

- Fully comply with the recommendations of the 2014 report on rendition and secret detention by the Parliamentary Ombudsman and implement measures to prevent future rendition flights;
- Fully respect human rights while countering terrorism;
- Ensure surveillance laws limiting privacy are narrow in scope, clear and foreseeable and that surveillance is targeted, based on reasonable suspicion, strictly necessary to meet a legitimate aim and conducted in a non-discriminatory and proportionate manner;
- Introduce safeguards against abuse and effective, independent and impartial oversight of intelligence activities, including parliamentary and judicial oversight.

#### **CIVILIAN ALTERNATIVES TO MILITARY SERVICE AND CONSCIENTIOUS OBJECTION**

- Immediately and unconditionally release all prisoners held due to conscientious objection to military service;
- Ensure civilian alternatives to military service are non-punitive and non-discriminatory in character and remain under civilian control.

#### **INTERNATIONAL JUSTICE**

- Remove statutes of limitations for the crime of torture and all war crimes, as well as any other legislative obstacles to the effective investigation and prosecution of crimes under international law;
- Promptly accede to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity without making any reservation;
- Promptly ratify the International Convention for the Protection of All Persons from Enforced Disappearance, signed on 6 February 2007, without making any reservation, and recognize the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims or other states parties;
- Criminalize the recruitment of child soldiers during peacetime;
- Create specialized and fully resourced units within the police, the prosecution and immigration services for the screening, investigation and prosecution of crimes under international law committed abroad, as well as a system for cooperation between these units.

#### **RATIFICATION OF INTERNATIONAL HUMAN RIGHTS TREATIES**

- Become party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.



## **RECOMMENATIONS TO THE GOVERNMENT OF INDIA**

### **INTERNATIONAL HUMAN RIGHTS LAW AND STANDARDS AND DOMESTIC LEGISLATION**

- Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which India signed in 1997 and committed to ratify in its 2012 UPR, without making any reservation or declaration amounting to reservations, and ensure that domestic legislation defines torture in line with international standards;
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance, signed on 6 February 2007, without making any reservation; recognize the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims or other states parties, and implement the Treaty fully into national law;
- Ratify the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families;
- Become party to the first and second Optional Protocols to the International Covenant on Civil and Political Rights, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and opt-in to the inquiry and inter-state mechanisms; the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Optional Protocol to the Convention on the Rights of the Child on a communications procedure; and the Optional Protocol to the Convention on the Rights of Persons with Disabilities;
- Ratify ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries and ILO Convention No. 189 concerning Decent Work for Domestic Workers;
- Endorse the UN Draft Principles and Guidelines for the Effective Elimination of Discrimination Based on Work and Descent;
- Amend the Juvenile Justice (Care and Protection of Children) Act to ensure that any person under the age of 18 at the time of the alleged commission of an offence is treated in accordance with juvenile justice rules, as mandated by the Convention on the Rights of the Child;
- Repeal or amend Section 377 of the Indian Penal Code to ensure that consensual same-sex relations are not criminalized;
- Restrict the imposition of the death penalty to the “most serious crimes”, which involve intentional killing, as a first step towards full abolition;
- Amend the Protection of Human Rights Act to expand the authority and mandate of the National Human Rights Commission and State Human Rights Commissions in order to strengthen their work to promote human rights and ensure they are adequately staffed and resourced;
- Strengthen co-operation with the UN Special Procedures and accept without delay outstanding requests to visit India, particularly from the Working Group on enforced or involuntary disappearances and the Special Rapporteurs on torture, rights of Indigenous Peoples, and rights to freedom of assembly and association.

### **HUMAN RIGHTS DEFENDERS**

- Drop all charges against and immediately and unconditionally release all persons detained or imprisoned solely for peacefully exercising their rights to freedom of expression, peaceful assembly or association;
- Investigate and prosecute anyone who harasses, intimidates or otherwise obstructs human rights defenders from carrying out their legitimate and peaceful activities;
- Repeal the Foreign Contribution (Regulation) Act and ensure the right to freedom of association, which includes the ability of civil society organisations to access foreign funding.

#### **CASTE-BASED DISCRIMINATION AND VIOLENCE**

- Take steps to ensure the effective enforcement of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, including by providing training to district-level officials responsible for its enforcement;
- Hold police officials accountable for failing to properly register and investigate complaints of caste-based discrimination and violence;
- Effectively implement the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, including by providing adequate rehabilitation to members of communities that carry out manual scavenging.

#### **RELIGIOUS VIOLENCE**

- Enact a new law to prevent and respond to communal and targeted religious violence, which incorporates international human rights principles of superior and command responsibility, remedy and reparation;
- Take steps to bringing to justice, in fair trials and without recourse to the death penalty, all those responsible for human rights abuses - including political leaders, police or government officials - during past incidents of mass violence against members of religious minorities, including the killings of Muslims in Gujarat 2002 and the massacre of Sikhs in Delhi in 1984;
- Establish a comprehensive and adequately resourced victim and witness protection programme at the central and state levels, which is independent of state agencies such as the police;
- Hold accountable public officials who advocate religious hatred that constitutes incitement to discrimination, hostility, or violence.

#### **VIOLENCE AGAINST WOMEN**

- Direct all state-level police personnel to establish standard operating protocols, in line with international standards, for registering and investigating cases of violence against women, and hold accountable officials who fail to properly register crimes involving violence against women;
- Remove the exception related to marital rape from the definition of rape in section 375 of the Indian Penal Code;
- Introduce laws to specifically prevent and prosecute “honour killings” and prosecute individuals or bodies that perpetrate or incite violence against Dalit or Adivasi women.

#### **BUSINESS AND HUMAN RIGHTS**

- Amend existing legislation to guarantee the right to free, prior and informed consent by Adivasis in all decisions that affect them, including by amending the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act;
- Investigate and prosecute human rights abuses suffered by communities due to public and private corporate-led projects and ensure that all victims are provided effective remedy and reparation;
- Ensure that the companies implicated in the 1984 Bhopal disaster pay adequate compensation to the victims, comply with orders in the ongoing criminal proceedings; and cover the costs of a clean-up operation;
- Require public and private mining companies to identify, prevent and mitigate any adverse impact on human rights, including by carrying out human rights impact assessments as part of due diligence processes.

#### **FREEDOM OF EXPRESSION**

- Repeal or revise provisions in the Indian Penal Code and other laws that unduly restrict the right to freedom of expression, including criminal defamation and sedition laws;
- Enact a robust law to protect the right to privacy, including through independent oversight mechanisms, and ensure that any restrictions on the right to privacy are necessary and proportionate to legitimate goals under international human rights law;

- Ensure that any interference with privacy is necessary and proportionate to legitimate goals and subject to judicial supervision and review;
- Ensure that police officials take steps to protect individuals who face threats, harassment or attacks for legitimately exercising their right to freedom of expression;
- Disclose details of mass surveillance programmes, such as the Central Monitoring System, including permitted grounds of surveillance and safeguards against abuse, and ensure that any communications surveillance programmes proceed only after due consultation with the public and deliberation in Parliament, and in accordance with international human rights standards.

#### ABUSES BY SECURITY FORCES

- Repeal the Armed Forces (Special Powers) Acts, grant sanctions to prosecute security force personnel in civilian courts, and ensure that military tribunals do not try military personnel suspected of crimes under international law or other human rights violations;
- Ensure thorough, independent and impartial investigations into all cases of alleged human rights violations by security forces, the prosecution of suspects in civilian courts in fair trials and without the recourse of the death penalty, and full reparation for victims.

#### ABUSES IN THE CRIMINAL JUSTICE SYSTEM

- Strengthen oversight mechanisms in all states to prevent excessive pre-trial detention, and ensure the provisions of competent, effective and free legal aid to all detainees who need it;
- Repeal or substantially revise the Unlawful Activities (Prevention) Act to bring it in line with international standards, including regarding the definition of “acts of terrorism” and the permissible period of detention of suspects without charge;
- Repeal all state and central-level laws which authorize administrative detention without charge or trial.

#### THE DEATH PENALTY

- Establish an official moratorium on executions and commute all death sentences to terms of imprisonment as first steps towards abolition of the death penalty;
- Pending full abolition of the death penalty, immediately remove all provisions in national law which breach international human rights law, in particular by restricting the imposition of the death penalty to only the “most serious crimes” and by abolishing all provisions which provide for mandatory death sentences.

#### HUMAN RIGHTS EDUCATION

- Ensure that government educational systems at the central and state level institutionalize and implement human rights education in school curricula, co-curricular activities, school policies and everyday practices;
- Incorporate human rights education into the 2016 national education policy, the Right of Children to Free and Compulsory Education Act and the 2005 National Curriculum Framework;
- Implement the recommendation on ending discrimination in schools from National Advisory Council's Working Group on the Right to Education.

#### INTERNATIONAL JUSTICE

- Promptly adhere to the Rome Statute of the International Criminal Court and implement it into national law;
- Accede to the Agreement on the Privileges and Immunities of the International Criminal Court, without making any reservation or declaration amounting to reservations.

#### ARMS TRADE TREATY

- Promptly accede to and implement the Arms Trade Treaty, with particular attention to Article 6 on Prohibitions and Article 7 on Export and Export Assessment, which prohibit the transfer of

arms that could be used to commit or facilitate serious violations of international human rights and humanitarian law.

## **RECOMMENDATIONS TO THE GOVERNMENT OF INDONESIA**

### **IMPUNITY FOR PAST HUMAN RIGHTS VIOLATIONS**

- Ensure that any non-judicial mechanism to address past human rights violations does not absolve the criminal justice system of its responsibility to investigate and – if sufficient admissible evidence exists – prosecute all those suspected of criminal responsibility for crimes under international law and human rights violations, in fair trials before ordinary civilian courts and without recourse to the death penalty;
- Address past human rights violations and take long overdue measures to provide the victims and their families with truth, justice and full reparations, with the first step being to listen to the victims and their families and not silence their voices;
- Pass a national truth and reconciliation law, in line with international law and standards, to guarantee access to truth, justice and reparations to victims of past human rights violations, including during the events of 1965-1966, the 1998 May riots, and the conflicts in Papua, Aceh and Timor-Leste.

### **FREEDOM OF EXPRESSION, THOUGHT, CONSCIENCE AND RELIGION**

- Immediately and unconditionally release all prisoners of conscience deprived of liberty solely for peacefully exercising their rights to freedom of expression and thought, conscience and religion;
- Repeal or amend all provisions in laws and regulations, in particular Articles 106, 110 and 156(a) of the Criminal Code and Law Number 1/PNPS/1965 on the Prevention of Religious Abuse and/or Defamation, which impose restrictions on the right to freedom of expression and thought, conscience and religion, in line with Indonesia's obligations under international human rights law.

### **THE HUMAN RIGHTS SITUATION IN PAPUA**

- Take the necessary steps to hold accountable all police and military personnel who have been involved in human rights violations in Papua, including by prosecuting them in civilian courts in proceedings which meet international fair trial standards and without recourse to the death penalty, and ensuring that the victims and their families receive reparations.

### **THE DEATH PENALTY**

- Establish a moratorium on executions as a first step towards the abolition of the death penalty;
- Pending full abolition, immediately establish an independent and impartial body, or mandate an existing one, to review all death penalty cases, with a view to commuting the death sentences or offer a retrial that fully complies with international fair trial standards and which does not resort to the death penalty.

### **RATIFICATION OF INTERNATIONAL TREATIES AND COOPERATION WITH THE UN SPECIAL PROCEDURES**

- Ratify the Rome Statute of the International Criminal Court, the International Convention for the Protection of All Persons from Enforced Disappearance, and ILO Convention No. 189 on Domestic Workers, as Indonesia committed to during its previous UPR, and to incorporate their provisions into domestic law and implement them in policy and practice;
- Become party to the first and second Optional Protocols to the International Covenant on Civil and Political Rights; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and opt-in to the inquiry and inter-state mechanisms; the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; the Optional Protocol to the Convention on the Rights of the Child on a communications procedure; and the Optional Protocol to the Convention on the Rights of Persons with Disabilities;

- Promptly accede to and implement the Arms Trade Treaty, with particular attention to Article 6 on Prohibitions and Article 7 on Export and Export Assessment, which prohibit the transfer of arms that could be used to commit or facilitate serious violations of international human rights and humanitarian law;
- Immediately accept and facilitate the visits requested by the Working Group on enforced or involuntary disappearances, the Special Rapporteur on freedom of expression and the Special Rapporteur on freedom of religion or belief, and ensure that they are granted unimpeded access to all relevant locations and are able to meet freely with a wide range of stakeholders, including victims and their families, civil society organizations, government officials and members of the security forces.

#### **REFORMING THE NATIONAL HUMAN RIGHTS FRAMEWORK**

- Revise and enact at the earliest opportunity a new Criminal Code and Criminal Procedure Code that comply with international human rights law and standards;
- Establish an independent police complaints mechanism to receive complaints about alleged human rights violations from the public, to carry out effective investigations and to refer cases to the Public Prosecutor;
- Revise the Law on Military Tribunals (Law No. 31/1997) to ensure that military personnel suspected of offences involving human rights violations are prosecuted before independent civilian courts in proceedings which meet international fair trial standards and without recourse to the death penalty;
- Repeal or revise the Aceh Islamic Criminal Code and other bylaws that provide for caning as a punishment or violate other human rights and bring these into compliance with Indonesia's international human rights obligations.

### **RECOMMENDATIONS TO THE GOVERNMENT OF MOROCCO**

#### **FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY**

- Remove provisions criminalizing peaceful free expression from the Penal Code;<sup>1</sup>
- End the prosecution of journalists under the Penal Code for peacefully exercising their right to freedom of expression;
- Remove obstacles to non-governmental associations seeking registration from the authorities and arbitrary restrictions on the peaceful activities of associations permitted in domestic law;
- Respect the right to peaceful protest and refrain from forcibly dispersing peaceful protest;
- End restrictions on the access to Morocco and Western Sahara for journalists, peaceful activists and human rights defenders.

#### **RIGHT TO A FAIR TRIAL**

- Amend the Code of Criminal Procedure to protect the rights of all detainees to legal counsel of their choice promptly after arrest and with no time limit and to have a lawyer present at all times during interrogation;
- Ensure that statements or confessions made by a person deprived of liberty, other than in the presence of a judge and with the assistance of a lawyer, have no probative value in legal proceedings;

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<sup>1</sup> The following articles of the Penal Code criminalize peaceful free expression: defamation (Articles 442 and 443), public insult (Articles 443 and 444), offending the King or Crown Prince (Article 179), offending public officials (Article 263) including falsely reporting an offence to an official (Article 264), "slandorous denunciation" (Article 445), offending "public bodies" (Article 265), disrespecting state symbols and emblems (Articles 267-1 to 267-4), and disrespecting Islam, the monarchy, or Morocco's "territorial integrity" understood by the Moroccan authorities to include Western Sahara (Article 267-5);

- Remove all exceptions from the Code of Criminal Procedure to prompt access to a lawyer for terrorism suspects and those held on state security charges;
- Amend the Code of Criminal Procedure to enable the defence to compel, through the courts, the presence of prosecution witnesses and to cross-examine them;
- Implement decisions by the UN Working Group on Arbitrary Detention regarding individual cases, including Mohamed Hajib, Ali Aarrass, Abdessamad Bettar, and Rachid Ghribi Laroussi,<sup>2</sup> all of whom remain imprisoned.

#### **HUMAN RIGHTS VIOLATIONS IN THE CONTEXT OF COUNTERING TERRORISM**

- Investigate allegations of torture and secret detention in Temara between 2002 and 2011 and hold those responsible accountable;
- Amend the Penal Code to include a precise definition of “advocacy of terrorism”.

#### **TORTURE AND OTHER ILL-TREATMENT**

- Ensure that whenever torture or other ill-treatment is alleged or suspected, the authorities undertake a prompt and impartial investigation, including a forensic medical examination in conformity with the Istanbul Protocol, or an autopsy in conformity with the Minnesota Protocol in case of a death in custody;
- Ensure that legal proceedings are postponed pending the outcome of investigations into alleged torture and other ill-treatment; that the scope, methods and findings of such investigations are made public; and that officials suspected of committing torture or other acts of ill-treatment are suspended from active duty during the investigations;
- Ensure that all reports of torture and other ill-treatment are promptly, impartially, independently and effectively investigated, including by conducting medical examinations in line with the Istanbul Protocol.

#### **WOMEN'S RIGHTS AND GENDER-BASED DISCRIMINATION**

- Review all laws and practices that discriminate on the basis of gender and bring them in line with international law and standards;
- Abolish the provisions of the Penal Code that criminalize abortion;<sup>3</sup>
- Guarantee access to legal and safe abortion, at a minimum, in case of pregnancies resulting from rape or incest, or when a pregnancy poses a risk to the life or health of the woman or girl, as well as in cases of severe or fatal foetal impairment, in accordance with the recommendations of the human rights treaty bodies;
- Decriminalize consensual sexual relations, including by repealing Penal Code provisions prohibiting same-sex sexual relations (Article 489), sexual relations outside marriage (Article 490) and adultery (Articles 491, 492, 493).

#### **REFUGEES AND MIGRANTS**

- Adopt national asylum legislation in line with international law and standards;
- End collusion in Spain's summary expulsion of migrants, asylum-seekers and refugees;
- End the use of disproportionate or unnecessary force against migrants, asylum-seekers and refugees by law enforcement officials;
- Investigate reports of human rights violations committed against migrants, asylum-seekers and refugees, make the findings publicly available, hold those responsible to account and provide victims with adequate remedies.

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<sup>2</sup> Opinions no. 40/2012, 25/2013, 3/2013, 23/2015

<sup>3</sup> A prison sentence or fine is prescribed for women who knowingly have or attempt to have an abortion (Article 454), as well as for anyone practicing or inciting abortion outside of this legal framework (Articles 449-452).

#### **IMPUNITY FOR HUMAN RIGHTS VIOLATIONS AND ABUSES**

- Conduct full, impartial and independent investigations into all allegations of crimes under international law and, where sufficient admissible evidence exists, prosecute those responsible in fair trials without recourse to the death penalty;
- Accept the competence of the UN Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims and interstate complaints.

#### **THE DEATH PENALTY**

- Commute all death sentences with a view to abolishing the death penalty for all crimes;
- Ensure that the death penalty, is not under any circumstances, imposed in violation of the guarantees provided for in Article 6 International Covenant on Civil and Political Rights;
- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

#### **INTERNATIONAL JUSTICE**

- Promptly ratify the Rome Statute of the International Criminal Court, signed on 8 September 2000, and implement it into national law;
- Accede to the Agreement on the Privileges and Immunities of the International Criminal Court, without making any reservation or declaration amounting to reservations;
- Promptly accede to the 1968 Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, without making any reservation, and implement it fully into national law.

#### **RATIFICATION OF INTERNATIONAL TREATIES**

- Become party to the first Optional Protocols to the International Covenant on Civil and Political Rights; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and opt-in to the inquiry and inter-state procedures; the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure;
- Promptly accede to and implement the Arms Trade Treaty, with particular attention to Article 6 on Prohibitions and Article 7 on Export and Export Assessment, which prohibit the transfer of arms that could be used to commit or facilitate serious violations of international human rights and humanitarian law.

### **RECOMMENDATIONS TO THE GOVERNMENT OF THE NETHERLANDS**

#### **NATIONAL ACTION PLAN ON HUMAN RIGHTS**

- Extend the National Action Plan on Human Rights to cover all relevant human rights issues, including counter-terrorism, government surveillance, migration and human rights education, and ensure independent monitoring and evaluation of the Action Plan.

#### **HUMAN RIGHTS EDUCATION**

- Fulfil the state's obligation to provide human rights education to all students by including it in the mandatory core curriculum of both primary and secondary schools, as well as in teacher training courses.

#### **PROTECTION OF MIGRANTS, REFUGEES AND ASYLUM-SEEKERS**

- Guarantee priority to the use of alternatives to migration detention;
- Ensure that vulnerable individuals and children are never held in detention;
- Take measures to prevent repeated detention, and never exceed the time limit for immigration detention under the EU Returns Directive;

- Ensure automatic and prompt judicial review of all cases of immigration-related detention to determine its lawfulness, necessity and proportionality;
- Clearly distinguish between immigration-related detention and penal detention, including by ensuring that immigration detention centres do not use locked cells;
- Put an immediate end to the use of isolation and solitary confinement as punitive measures in immigration detention centres by ensuring that isolation is limited to situations in which a person is a danger to him- or herself or to others.

#### **COUNTER-TERRORISM**

- Ensure effective safeguards against abuse under the Temporary Administrative (Counter-Terrorism) Measures Act and the Amendment of the Netherlands Nationality Act to Revoke Dutch Citizenship in the Interest of National Security, including independent oversight of the application and implementation of administrative control orders and mechanisms to effectively challenge those measures;
- Guarantee that those subjected to these measures, and their lawyers, have effective access to the information forming the basis of the allegations against them to ensure equality of arms.

#### **GOVERNMENT SURVEILLANCE**

- Bring the draft Law on the Intelligence and Security Services in line with international human rights standards, including by requiring that the interception of communications is based on individual reasonable suspicion of wrongdoing and authorised by an independent judicial authority;
- Amend the draft Law on the Intelligence and Security Services to provide a clear and accessible framework governing intelligence-sharing with foreign agencies to prevent the sharing of information that could lead to or result from serious human rights abuses, and the receipt of intelligence obtained by indiscriminate mass surveillance.

#### **BUSINESS AND HUMAN RIGHTS**

- Require by law that companies headquartered or domiciled in the Netherlands undertake human rights due diligence measures in respect of their global operations, with particular attention to high-risk areas, such as Shell's operations in the Niger Delta region of Nigeria;
- Ensure better access to effective remedy for people whose rights have been adversely affected by companies headquartered or domiciled in the Netherlands, including through criminal proceedings, where appropriate, against the companies involved.

#### **NON-DISCRIMINATION**

- Ensure systematic monitoring of police stop-and-search operations;
- Provide instructions and guidance to police officers on how to use stop-and-search powers, including the requirement that police officers explain their reasoning and the legal grounds for the stop-and-search to the affected individual.

#### **RIGHT TO PEACEFUL ASSEMBLY**

- Amend the Public Assemblies Act by removing the prohibition on demonstrations due to a lack of prior notification, update relevant regulations and introduce, in close consultation with civil society, national police instructions to guarantee the right to peaceful assembly.

#### **HUMAN RIGHTS DEFENDERS**

- Establish a focal point within the Ministry of Foreign Affairs or other suitable government department that can be contacted on an urgent basis by human rights defenders at risk in the Netherlands.

#### **INTERNATIONAL JUSTICE**

- Promptly accede to the 1968 Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, without making any reservation, and implement it fully into national law.



#### **RATIFICATION OF INTERNATIONAL HUMAN RIGHTS TREATIES**

- Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and opt-in to the inquiry and inter-state mechanisms;
- Become party to International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; the Optional Protocol to the Convention on the Rights of the Child on a communications procedure; and the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

### **RECOMMENDATIONS TO THE GOVERNMENT OF THE PHILIPPINES**

#### **INTERNATIONAL HUMAN RIGHTS LAW AND THE NATIONAL HUMAN RIGHTS FRAMEWORK**

- Promptly accede to the International Convention on the Protection of All Persons from Enforced Disappearance, without making any reservation, recognizing the competence of the Committee on Enforced Disappearances, and bring the Anti-Enforced Disappearance Act into line with the Convention by criminalizing enforced disappearance committed by groups acting without the support of the state and ensuring the responsibility of commanders and other superiors;
- Become party to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and opt-in to the inquiry and inter-state mechanisms; the Optional Protocol to the Convention on the Rights of the Child on a communications procedure; and the Optional Protocol to the Convention on the Rights of Persons with Disabilities;
- Ensure that the National Human Rights Commission, mandated to investigate allegations of human rights violations, is sufficiently resourced to effectively perform its functions.

#### **ARMS TRADE TREATY**

- Promptly accede to and implement the Arms Trade Treaty, with particular attention to Article 6 on Prohibitions and Article 7 on Export and Export Assessment, which prohibit the transfer of arms that could be used to commit or facilitate serious violations of international human rights and humanitarian law.

#### **UNLAWFUL KILLINGS AND ENFORCED DISAPPEARANCES**

- Publicly acknowledge and condemn all unlawful killings and enforced disappearances, and in particular, immediately end unlawful killings and incitement to carry out killings in the name of the “war on drugs”;
- Establish a special task force to thoroughly and independently investigate all complaints and reports of unlawful killings in law enforcement operations, including those related to anti-drug operations;
- Ensure that all cases of suspected unlawful killings involving the police are investigated and prosecuted as criminal offences rather than through administrative and disciplinary processes;
- Ensure that law enforcement officials under investigation for having committed unlawful killings are immediately suspended from their duties and remain so throughout the investigation;
- Ensure that the families of victims of extrajudicial executions have access to effective remedies, including compensation and rehabilitation;
- Provide effective protection to witnesses of unlawful killings from threats to their lives and security, by ensuring the proper implementation of the Witness Protection, Security and Benefit Act;
- Invite the UN Special Rapporteurs on extrajudicial, summary or arbitrary executions and on the right to health for a joint visit to the Philippines, without condition;
- Ensure the effective implementation of the Enforced Disappearances Act by taking concrete steps to guarantee prompt, impartial, independent investigations into all reports of enforced disappearance, that those suspected of criminal responsibility are brought to justice in fair trials before ordinary civilian courts, and that victims are guaranteed full reparations;

- Establish an independent police complaints commission to streamline and unify accountability efforts related to human rights violations, including extrajudicial executions carried out by the police or by paid killers with police involvement.

#### **TORTURE AND OTHER ILL-TREATMENT**

- Expedite the establishment of a National Preventive Mechanism, as required under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which is independent of the government and has the necessary expertise and resources;
- Ensure immediate and effective implementation of the Administrative Order No. 35 Guidelines, and guarantee periodic monitoring of its implementation;
- Address the complexity and overlaps among accountability bodies for human rights violations by the police to streamline the process of holding perpetrators to account and facilitate access to justice for the victims of such violations;
- Ensure the effective implementation of the Anti-Torture Act by taking concrete steps to guarantee prompt, impartial and independent investigations into all reports of torture by law enforcement officials, and that those suspected of criminal responsibility are brought to justice through prosecution in a civilian court of law.

#### **MATERNAL HEALTH AND SEXUAL AND REPRODUCTIVE RIGHTS**

- Ensure the full and effective implementation of the Responsible Parenthood and Reproductive Health Act in line with the Philippines' international obligations;
- Repeal all legislation criminalizing abortion, including women seeking abortions and healthcare providers performing such services, and take measures to provide legal and safe abortion, at a minimum, in cases of rape or incest, where the life or health of the woman or girl is at risk, or in cases of severe or fatal foetal impairment.

#### **THE DEATH PENALTY**

- Uphold the Philippines' obligations as a state party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and oppose any attempts to reintroduce the death penalty.

### **RECOMMENDATIONS TO THE GOVERNMENT OF POLAND**

#### **THE CONSTITUTIONAL TRIBUNAL**

- Implement its judgments of 3 and 9 December 2015 requiring that the three judges lawfully elected in October 2015 by the previous Parliament take office and the three judges elected unconstitutionally by the current Parliament do not take up posts;
- Publish and fully implement the 9 March 2016 and 11 August 2016 judgments on the Law on the Constitutional Tribunal;
- Publish and fully implement subsequent Constitutional Tribunal judgments and ensure that the publication of future judgments is automatic and not dependent on the executive or legislature;
- Ensure that any future reform of the Law on the Constitutional Tribunal respects the relevant judgments and does not threaten the Tribunal's independence, integrity and effectiveness in carrying out constitutional review.

#### **THE HUMAN RIGHTS COMMISSIONER**

- Provide the Human Rights Commissioner's office with sufficient resources to function effectively.

#### COUNTER-TERRORISM AND SURVEILLANCE

- Amend the Counterterrorism Law to bring it in line with international human rights standards, in particular in relation to the rights to life, liberty, privacy, fair trial, expression, peaceful assembly, and non-discrimination, and ensure that counterterrorism operations are conducted in full conformity with these standards;
- Review and amend legislation relating to surveillance, introduce a proportionality test and establish an independent and effective system of authorization and control, including with regard to collection of metadata, in addition to judicial pre-authorization of surveillance under the Police Act;
- Ensure that professional privilege is not compromised by surveillance measures;
- Ensure that the use of evidence does not violate the affected person's human rights;
- Complete the domestic investigation into CIA detention sites without delay and implement the ECtHR judgments on this issue;
- Ratify the UN Convention for the Protection of All Persons from Enforced Disappearance.

#### DISCRIMINATION AND HATE CRIMES

- Amend the Penal Code to provide that crimes motivated by discrimination on any grounds, including disability, gender identity and expression and sexual orientation, are investigated and prosecuted as hate crimes;
- Amend Poland's anti-discrimination law to provide that discrimination on grounds including disability, gender identity and expression, and sexual orientation is prohibited in all areas of life;
- Reinstatement of the Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance.

#### SEXUAL AND REPRODUCTIVE RIGHTS

- Ensure that safe and legal abortion can be accessed in practice by creating clear, legally binding regulations for the implementation of the 1993 Act on Family Planning;
- Fully and effectively implement the ECtHR's judgments on access to abortion;
- Repeal the Penal Code provisions related to doctors, in particular Article 152, paragraphs 1 and 2, who perform or assist in the performance of an abortion that do not meet the conditions set out in the 1993 Act on Family Planning;
- Ensure access to an effective remedy and timely review of appeals against refusal of an abortion where provided for in law;
- Refrain from enacting proposals to further restrict access to abortion for women and girls in Poland.

#### INDEPENDENCE OF THE JUDICIARY

- Amend the Law on Prosecution, separating the functions of Prosecutor General and Minister of Justice and putting in place sufficient safeguards against abuse of power to protect the independence of the judiciary and the right to a fair trial.

#### RATIFICATION OF INTERNATIONAL TREATIES

- Promptly ratify the International Convention for the Protection of All Persons from Enforced Disappearance, signed on 25 June 2013, without making any reservation; recognize the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims or other states parties, and implement the Treaty fully into national law.
- Become party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and opt-in to the inquiry and inter-state procedures; the Optional Protocol to the Convention on the Rights of Persons with Disabilities;

and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

## **RECOMMENDATIONS TO THE GOVERNMENT OF SOUTH AFRICA**

### **FREEDOM OF EXPRESSION**

- Align the Protection of State Information Bill with international human rights standards.

### **TORTURE AND OTHER ILL-TREATMENT**

- Ensure that the Independent Police Investigative Directorate (IPID) undertakes investigations into reports of torture and other ill-treatment;
- Ensure that staff of the Independent Police Investigative Directorate (IPID) mandated to investigating alleged incidents of torture, extrajudicial executions and related abuses are able to conduct their work without intimidation and receive full co-operation by law enforcement officials;
- Publicly and unambiguously denounce acts of torture and other ill-treatment and extra-judicial executions as human rights violations unjustified under any circumstances;
- Ensure that the South African Police Service fully implements the Prevention and Combatting of Torture of Persons Act, by allocating adequate budget to and beginning systematic rollout of training programmes of all police officers and supporting whistle blowers exposing torture within police ranks.

### **RATIFICATION OF INTERNATIONAL TREATIES**

- Take all necessary steps towards the urgent ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and opt-in to the inquiry and inter-state procedures;
- Become party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

### **THE NATIONAL HUMAN RIGHTS FRAMEWORK**

- Improve the access to the courts for indigent clients, including by lowering the cost of litigation;
- Revise the Green Paper on International Migration to be consistent with international human rights law standards to protect the human rights of refugees, migrants and asylum seekers in South Africa.

### **MATERNAL HEALTH**

- Continue the provision of free antiretroviral treatment for pregnant women living with HIV and ensure appropriately resourced and accessible healthcare facilities that ensure that all health system procedures uphold patient confidentiality and enhance non-discrimination;
- Prioritize the prevention of unwanted pregnancy through access to comprehensive sexuality education and modern contraception, including emergency contraceptives and termination of pregnancy services, as provided under the Choice on Termination of Pregnancy Act;
- Avoid the use of specific files for HIV treatment, separate queues and designated waiting areas for people living with HIV;
- Issue clear guidelines and protocols to all health care professionals and facility management which clarify the limits of conscientious objection in refusing to perform abortions and enforce the ethical duties of health care professionals to prioritize the right of women and girls to access health care;
- Ensure that lists of facilities providing safe and legal abortions are readily available to the public;

- Improve knowledge among health care workers and adolescents about sexual and reproductive health and rights, including through comprehensive sexuality education that involves both women and girls and men and boys and accessible information on where to access sexual and reproductive health services, including termination of pregnancy services;
- Urgently address the persistent lack of safe, convenient and adequate transport to health facilities, and the poor condition of roads, particularly in rural settings, including through subsidized or free transport, grants to pregnant women and girls to cover transport costs, improving road infrastructure, and improved transport options.

#### EXCESSIVE USE OF FORCE

- Conduct thorough, prompt and impartial investigations into all instances of excessive use of force by the security forces, including the deaths of 34 miners and injuries to more than 70 miners in Marikana on 16 August 2012;
- Ensure full accountability for the deaths and injuries which occurred at Marikana and reparations for the victims and their families;
- Ensure that all members of the security forces carrying out law enforcement duties, including members of the armed forces, comply fully with the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

#### BUSINESS AND HUMAN RIGHTS

- Ensure that Lonmin fulfils its obligations under the Mineral and Petroleum Resources Development Act;
- Sanction Lonmin over its failure to fulfil its commitments in the Social and Labour Plan, including the provision of 5,500 houses, in line with the recommendation of the Farlam Commission;
- Require, whether by policy or legislative measures, that all company reports to the Department of Mineral Resources on progress to fulfil its socio-economic commitments as expressed in the Social and Labour Plan are publicly disclosed and made available and accessible to employees, local communities and other stakeholders;
- Require Lonmin to provide the Department of Mineral Resources with updated proposals to address employee accommodation under its Social and Labour Plan.

#### INTERNATIONAL JUSTICE

- Promptly denounced the decision to withdrawal from the Rome Statute of the International Criminal Court, made on 19 October 2016;
- Accede to the Agreement on the Privileges and Immunities of the International Criminal Court, without making any reservation or declaration amounting to reservations;
- Promptly accede to the 1968 Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, without making any reservation, and implement it fully into national law;
- Promptly adhere to the International Convention for the Protection of All Persons from Enforced Disappearance, without making any reservation; recognize the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims or other states parties, and implement the Treaty fully into national law.

## **RECOMMENDATIONS TO THE GOVERNMENT OF TUNISIA**

### **NORMATIVE AND INSTITUTIONAL FRAMEWORK**

- Ensure national laws, including the Penal Code and the Code of Criminal Procedures, comply with the Constitution and Tunisia's international human rights obligations;
- Abolish the death penalty;
- Amend Law 25 of 2015 on Counter-terrorism and Preventing Money Laundering to bring it into full compliance with relevant international human rights law and standards, as well as recommendations by UN human rights bodies.

### **ABUSE OF EMERGENCY MEASURES**

- Ensure that any derogation from Tunisia's international obligations is exceptional and temporary and limited to what is strictly required by the exigencies of the situation and protect non-derogable rights such as the right to life, the prohibition of torture and other-ill-treatment and the principle of non-discrimination.

### **TORTURE AND OTHER ILL-TREATMENT**

- Bring the definition of torture in Article 101bis of the Penal Code in line with the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and remove any reference in national legislation to a statute of limitation for the crime of torture;
- Thoroughly investigate all allegations of torture and other ill-treatment, including rape and other sexual assault, prosecute all those suspected of criminal responsibility in line with international fair trial standards and without recourse to the death penalty, and provide redress and compensation to the victims;
- Ensure that law enforcement officers accused of torture or other ill-treatment are suspended from active service until the investigation is complete.

### **IMPUNITY FOR HUMAN RIGHTS VIOLATIONS**

- Ensure that all those suspected of criminal responsibility for crimes under international law or human rights violations, including violations committed under former President Ben Ali, are brought to justice in fair trials before ordinary civilian courts, and without recourse to the death penalty;
- Ensure full reparation for the victims of crimes under international law or human rights violations committed under former President Ben Ali and protect all individuals who may provide information for the investigations;
- Undertake an overhaul of the security apparatus and establish a vetting system for all members of the security forces to ensure that those reasonably suspected of serious human rights violations do not remain in – or placed in - positions where they could repeat such violations, and make public a clear structure of the security branches, including the chain of command.

### **FREEDOM OF EXPRESSION, ASSEMBLY AND ASSOCIATION**

- Ensure all allegations of excessive use of force by the security forces against peaceful protesters are investigated in a prompt, effective and independent manner;
- Amend or repeal laws that criminalize the peaceful exercise of the right to freedom of expression, including Articles 121(3), 128 and 226 in the Penal Code that criminalize attacks on sacred values, offences to public order or public morals and Article 98 of the Code of Military Justice;
- Ensure that any restrictions on the rights to freedom of expression, assembly and association, including under emergency measures, are strictly in line with international standards.

### **SEXUAL AND GENDER-BASED VIOLENCE**

- Adopt a comprehensive law on violence against women and girls that includes the provision of protection orders and appropriate penalties, and guarantees access to justice and redress including compensation and other reparation for the victims of such violence;

- Amend or repeal harmful laws, in particular:
  - Article 227 of the Penal Code to explicitly criminalize marital rape and redefine rape in line with international standards;
  - Articles 227bis and 239 of the Penal Code to stop rapists and abductors from escaping prosecution by marrying their teenage victims;
  - Articles 236 and 230 of the Penal Code to end criminalization of adultery and same-sex sexual relations;
- Immediately and unconditionally release anyone detained because of their actual or perceived sexual orientation or gender identity;
- End the use of forced anal examinations of LGBTI persons and “virginity tests” of survivors of sexual assault.

#### **RATIFICATION OF INTERNATIONAL TREATIES**

- Become party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and opt-in to the inquiry and inter-state procedures; and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure;
- Promptly accede to and implement the Arms Trade Treaty, with particular attention to Article 6 on Prohibitions and Article 7 on Export and Export Assessment, which prohibit the transfer of arms that could be used to commit or facilitate serious violations of international human rights and humanitarian law.

#### **THE DEATH PENALTY**

- Commute all death sentences with a view to abolishing the death penalty for all crimes;
- Ensure that the death penalty is not under any circumstances imposed in violation of the guarantees provided for in Article 6 International Covenant on Civil and Political Rights;
- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

### **RECOMMENDATIONS TO THE GOVERNMENT OF UNITED KINGDOM**

#### **NATIONAL HUMAN RIGHTS PROTECTION MECHANISMS**

- Confirm its commitment to remaining a state party to the European Convention on Human Rights and formally abandon its intention to replace the Human Rights Act 1998;
- Establish without delay a specific Bill of Rights for Northern Ireland which builds upon the rights enshrined in the Human Rights Act and takes account of the particular circumstances of Northern Ireland;
- Fully recognize the extraterritorial application of human rights obligations under international and regional law and standards;
- Urgently review the impact of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 on access to justice and protection of human rights, particularly on vulnerable and disadvantaged groups;
- Implement the “prisoner voting” decision of the European Court of Human Rights in respect of prisoner voting and re-state its commitment to abide by the Court’s rulings and respect the rule of law.

#### **COUNTER-TERRORISM AND POLICING:**

- Ensure all current and future counter-terrorism measures are fully compatible with international human rights law and standards;

- Bring the legal framework for communications surveillance in line with international human rights law, including by ending all “bulk” surveillance practices;
- End the policy of relying on diplomatic assurances as a means of circumventing the UK’s obligation not to expose individuals to the risk of torture and other ill-treatment through any form of involuntary transfer to the territory or jurisdiction of another state.

#### FAILURES OF ACCOUNTABILITY AND OPENNESS

- Immediately transfer the inquiry into allegations of UK involvement in abuse of detainees held overseas from the parliamentary Intelligence and Security Committee to an independent judicial body;
- Establish fully human rights-compliant mechanisms to investigate all allegations of past human rights abuses and violations arising from the political conflict in Northern Ireland;
- Repeal the parts of the Justice and Security Act 2013 which extend “closed material procedures” to civil courts and ensure that material pertaining to human rights violations is disclosed where relevant to proceedings.

#### PROTECTION OF MIGRANTS

- Reverse changes made to the family immigration rules in July 2012, particularly by removing the minimum income requirement;
- Introduce a statutory, short time limit on immigration detention designed to constrain its use, and ensure such detention is only used exceptionally where there is no possible alternative, and not in the case of vulnerable individuals and groups;
- Introduce periodic, automatic judicial oversight of the continuation of a person’s immigration detention and oblige the Home Office to demonstrate a continuing, exceptional need to detain with a realistic prospect of the purpose of an individual’s detention being achieved within an appropriately short period of time;
- Reintroduce a general right to switch employers for those on overseas domestic worker visas;
- Extend domestic violence protections in the Immigration Rules and policy to those seeking to escape abusive partners with limited rights to remain in the UK;
- Repeal section 94B of the Nationality, Immigration and Asylum Act 2002 (as introduced by section 17 of the Immigration Act 2014 and to be amended by section 63 of the Immigration Act 2016) to ensure individuals are not removed from the UK before their immigration appeals are heard.

#### WOMEN, GIRLS AND FAMILY LIFE

- Ensure that the law governing access to abortion in Northern Ireland fully complies with international human rights law, by decriminalizing abortion and ensuring access to abortion, at a minimum, where the pregnancy is a result of rape or incest and in cases of severe or fatal foetal impairment in addition to where the pregnancy poses a risk to the life or a real and serious long-term or permanent damage to the health of the woman or girl;
- End discrimination against same-sex couples in Northern Ireland with regards to the right to marry and found a family, by bringing the relevant law in Northern Ireland into line with that in other parts of the United Kingdom.

#### BUSINESS AND HUMAN RIGHTS

- Consistent with the recommendations of the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, and the Office of the High Commissioner for Human Rights, bring its corporate criminal liability regime in line with international human rights law, in particular so it is capable (both in law and in practice) of ensuring accountability and effective remedy for victims of serious human rights abuses involving the operations of UK companies abroad that result from or are linked to illegal acts in the UK;



- Amend sections 33 and 34 of the Environmental Protection Act 1990 to ensure that it applies where a business enterprise operating from the UK produces, treats or disposes of or arranges the production, treatment or disposal of hazardous substances or waste in another State (regardless of whether that waste was produced within or passes through UK territory).

#### HUMAN RIGHTS EDUCATION

- Make explicit reference to human rights in the curriculum at all four key stages, in order to actively foster the values of justice, freedom, truth and dignity;
- Make sex and relationships education (SRE) a statutory subject and ensure it includes LGBTI rights and relationships.

#### RATIFICATION OF HUMAN RIGHTS TREATIES

- Promptly accede to the 1968 Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, without making any reservation, and implement it fully into national law;
- Adhere to the International Convention for the Protection of All Persons from Enforced Disappearance, without making any reservation, and recognize the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims or other states parties;
- Become party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; the first Optional Protocol to the International Covenant on Civil and Political Rights; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and opt-in to the inquiry and inter-state procedures; and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.