



AMNESTY INTERNATIONAL ASSESSMENT OF STATES' IMPLEMENTATION OF RECOMMENDATIONS FROM THE PREVIOUS UPR

18TH SESSION OF THE UPR WORKING GROUP, 27 JANUARY – 7 FEBRUARY 2014

INTRODUCTION

In preparation for the 18th session of the Universal Periodic Review Working Group, Amnesty International has assessed the extent to which 12 of the states up for review have implemented key recommendations accepted in their previous UPR in 2009. The states discussed below are: Afghanistan, Cambodia, Chile, Cyprus, Dominican Republic, Eritrea, FYR of Macedonia, New Zealand, Slovakia, Uruguay, Viet Nam and Yemen.

Amnesty International welcomes efforts by several states to implement recommendations they had previously agreed to. For example, Afghanistan has introduced new domestic legislation to combat violence against women and established training programmes for members of the judiciary. A number of states have undertaken ratification of international human rights standards, including Cambodia of the Convention on the Rights of Persons with Disabilities, Chile of the Rome Statute of the International Criminal Court and the Convention on Protection of All Persons from Enforced Disappearance, and the Dominican Republic of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It is important to note, however, that many of the provisions of these treaties have yet to be implemented in national legislation in the three countries. Other welcome developments include the establishment in Chile of the National Human Rights Institute and the appointment in Uruguay of the Board of Directors of the National Human Rights Institution. Amnesty International also welcomes progress in Viet Nam in reducing the scope of the death penalty, and measures by Yemen to advance the role of women in decision-making and to ensure effective birth registration.

Despite these developments, however, Amnesty International continues to be concerned that implementation of accepted recommendations is slow, and in some cases entirely absent. Recommendations to ratify international human rights treaties have yet to be implemented by several states, including Cambodia and Eritrea, and efforts to establish a National Human Rights Institution have not progressed in Cambodia and the Dominican Republic.

Discrimination against women in both law and practice continues to be reported in Afghanistan, Macedonia and Yemen, as does violence against women in the Dominican Republic and New Zealand. In Slovakia, Roma children still experience discrimination in access to education, and in Macedonia measures to protect LGBTI individuals fail to meet international standards. In Chile, the rights of Indigenous Peoples, including to be consulted on projects affecting their lands, have not been respected.

In Chile and Uruguay, truth, justice and reparations have yet to be fully achieved for the victims of past human rights violations, including because legislation providing amnesty for such crimes is still in force. Cyprus continues to resort to detention of irregular migrants and conditions in detention fall short of international standards.

In Eritrea, prisoners of conscience continue to be held and torture in detention is commonplace. Juvenile

offenders face execution in Yemen including due to lack of birth certificates.

Respect for freedom of expression continues to deteriorate in Cambodia and Viet Nam and human rights defenders there face threats, harassment and violence simply for promoting human rights.

These shortcomings in the implementation of accepted recommendations are set out in more detail below (and the specific recommendations referred to are identified in related footnotes).

Amnesty International strongly urges states involved in the 18th session of the UPR Working Group to pay close attention to the implementation of accepted recommendations and to address any gaps in implementation with renewed recommendations, bilateral collaboration and the sharing of good practice among states to promote and facilitate implementation at the national level leading to an improvement of the situation of human rights.

AFGHANISTAN

The previous government, also under President Karzai, accepted over 100 recommendations during the 2009 review, including to improve women's human rights¹ and the justice system,² to implement the 2005 Action Plan for Peace Justice and Reconciliation,³ to strengthen support for the Afghan Human Rights Commission,⁴ and to improve media freedom.⁵

Since that review, the government has made some progress, including through new laws, notably the Elimination of Violence Against Women Law in 2009, and training programmes for several hundred prosecutors and defence lawyers. In government-controlled areas, journalists and media organizations have generally enjoyed some freedom of expression despite threats from state and non-state actors.

However, some government measures to implement the UPR recommendations have been limited in scope and have even served to undermine some of the very recommendations it had accepted. For example, the government pledged to review the Shi'a Personal Status Law of March 2009 which regulates the personal affairs of Afghanistan's Shi'a population, including with regard to divorce and separation, inheritance, and marriageable age, because this law legitimised discriminatory social norms towards Shi'a women. Despite some revision of the law (as recommended by several states) in July 2009, a number of discriminatory provisions remain, breaching the constitutional provision that men and women have equal legal status.

The 2005 Peace, Reconciliation and Justice Action Plan (approved by the government and international donors in 2006) to address past human rights violations and promote national reconciliation, expired in 2009 and was not renewed. A few of the Plan's action points have been implemented, including the establishment of a panel to advise the president on senior political appointments; however, this panel has not proved to be a credible vetting mechanism to prevent individuals who are alleged to have committed or facilitated serious human rights violations

¹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review of Afghanistan*, A/HRC/12/9, 20 July 2009, for example recommendations: 16 (Indonesia); 24 (Jordan); 26 (Philippines); 27 (Slovenia); 28 (Finland); 29 (Finland); 30 (Switzerland); 31 (Republic of Korea); 33 (Bahrain); 34 (United Kingdom); 35 (United States); 36 (United States); 38 (Tunisia); 39 (Austria); 40 (Sweden); 41 (Albania); 50 (Hungary); 51 (Brazil); 52 (Spain); 59 (Austria); 76 (Algeria) 78 (Islamic Republic of Iran); A/HRC/12/9/Add.1, 18 September 2009, recommendation 19 (Japan).

² A/HRC/12/9, for example recommendations: 12 (Nepal); 13 (The Netherlands); 14 (Pakistan); 19 (Egypt); 47 (Denmark); 61 (Canada); 62 (Austria); 64 (United Kingdom); 65 (Malaysia); 66 (Czech Republic); 67 (Jordan); 68 (Japan); 69 (Spain); A/HRC/12/9/Add.1 recommendation 19 (Japan); 28 (United States); 29 (Turkey).

³ A/HRC/12/9/Add.1, for example recommendations: 23 (Norway), 24 (Mexico), 25 (Netherlands), 26 (Morocco).

⁴ A/HRC/12/9, for example recommendations: 9 (Algeria), 10 (Jordan), 11 (Finland). A/HRC/12/9/Add.1, for example recommendations: 8 (Finland), 9 (Spain), 10 (Czech Republic).

⁵ A/HRC/12/9, for example recommendations: 56 (Norway), 70 (Sweden), 71 (Spain), 72 and 73 (Hungary). A/HRC/12/9/Add.1, for example recommendations: 34 (United States), 35 (Netherlands).

from holding public office. The spirit and aims of the Action Plan have been further undermined by the promulgation in 2009 of the National Reconciliation, General Amnesty and National Stability Law, which grants immunity from criminal prosecution to people involved in serious human rights violations and war crimes over the past 30 years and to members of the Taliban and other armed groups who pledge to cooperate with the Afghan government.

CAMBODIA

Human rights framework

Four states recommended that Cambodia establish a National Human Rights Institution consistent with the Paris Principles.⁶ However, despite an earlier commitment to do so by Cambodia's Prime Minister Hun Sen in September 2006, and Cambodia's acceptance of these recommendations at its first UPR, the Royal Government of Cambodia has made no progress in this regard.

One state recommended more consultation on law and policy, in particular with regard to their human rights impact.⁷ But while there has been consultation on some draft laws, this is undertaken on an *ad-hoc* basis and has not been adequate.

Amnesty International welcomes Cambodia's strong record of ratifying international human rights treaties, including its recent ratification of the Convention on the Rights of Persons with Disabilities. Cambodia has yet to ratify the International Convention for the Protection of All Persons from Enforced Disappearance; the two Optional Protocols to the International Covenant on Civil and Political Rights, even though it committed to do so after the previous UPR;⁸ and the Optional Protocols to the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities, as recommended by some states.⁹ Further, Cambodia has still not submitted a number of pending reports to the treaty bodies, including any report to the UN Human Rights Committee on compliance with the International Covenant on Civil and Political Rights since its initial report in 1998.

Some states recommended that Cambodia cooperate with the UN to strengthen human rights.¹⁰ Amnesty International is concerned that during the reporting period the government has at times been confrontational towards and uncooperative with the Office of the UN High Commissioner for Human Rights in Cambodia and the Special Rapporteur on the situation of human rights in Cambodia.

Human rights situation on the ground – Human Rights Defenders

Seven states recommended greater respect for freedom of expression,¹¹ but respect for freedom of expression has deteriorated since the previous UPR. In addition, a further nine states recommended better protection of human rights defenders and facilitation of their work;¹² however, we are particularly concerned that defenders – including land and housing rights activists from urban, rural and indigenous communities; those in grassroots groups and informal groups; those in associations and NGOs; trade unionists; journalists; and parliamentarians – continue to face threats, harassment, legal action and violence, including killings, simply for promoting and protecting human

⁶ Human Rights Council, *Report of the Working Group on the Universal Periodic Review of Cambodia*, A/HRC/13/4, recommendation 82.7 (Pakistan, Egypt, Thailand, Philippines).

⁷ A/HRC/13/4, recommendation 82.6 (United Kingdom).

⁸ A/HRC/13/4, recommendations 82.1 (Brazil) and 82.2 (Spain).

⁹ A/HRC/13/4, recommendations 82.1 (Brazil), 82.2 (Spain), 82.3 (New Zealand), and 82.4 (Slovakia).

¹⁰ A/HRC/13/4, recommendation 82.90 (Lao People's Democratic Republic, Hungary).

¹¹ A/HRC/13/4, recommendation 82.46 (Switzerland, Canada, France).

¹² A/HRC/13/4, recommendations 82.51 (Sweden), 82.52 (Italy), 82.53 (Brazil), 82.54 (Germany, Austria, Norway, Ireland), 82.55 (Norway), 82.58 (United States).

rights.

Despite Cambodia's acceptance of no less than 13 recommendations to end forced evictions,¹³ land and housing rights activists continue to be targeted in the context of a continuing crisis over land, with forced evictions, land disputes and land grabbing affecting thousands of people.

The government continues to control the justice system, and rule of law in the country remains very weak. The justice system is used to persecute human rights defenders and curtail their work and rights. This is despite Cambodia's support of 11 recommendations on reform to ensure the independence of the judiciary and to strengthen the rule of law.¹⁴ In addition, Cambodia also supported five recommendations to harness the work of the Extraordinary Chambers in the Courts of Cambodia, including to strengthen the national justice system,¹⁵ but apparent political interference is jeopardizing the tribunal's potential in this regard.

CHILE

During its previous review in 2009, Chile accepted 71 of the 77 recommendations it received during the review.¹⁶ Amnesty International considers, however, that some of these have been only partially implemented.

Discrimination

Chile accepted recommendations to eliminate discrimination against women and Indigenous Peoples, or on the grounds of sexual orientation.¹⁷ Although the adoption in 2012 of the Law Establishing Measures Against Discrimination is a welcome development,¹⁸ this has yet to be fully implemented.

Past crimes

Chile also supported recommendations to amend the Amnesty Law,¹⁹ to take measures to eradicate torture,²⁰ and to ratify the International Convention for the Protection of All Persons from Enforced Disappearance²¹ and the Rome Statute of the International Criminal Court.²² Amnesty International considers that despite some progress, achieving truth, justice and reparations for the victims of crimes of the past has not yet been achieved. A Commission tasked with investigating cases of torture and imprisonment worked in 2010-2011 and identified some new cases in its final report; however, it was criticized with regard to its time frame and procedures. Chile has now ratified the Rome Statute and the International Convention for the Protection of All Persons from Enforced Disappearance, and recognized the competence of the Committee on Enforced Disappearances; however, it has yet to implement these standards in national law. Amnesty International is also concerned that Decree Law 2191 of 1978, providing amnesty for crimes committed between 11 September 1973 and 10 March 1978, is still in force, and that the definition of torture in national law has not been aligned with that contained

¹³ A/HRC/13/4, recommendations 82.38 (Japan), 82.62 (Mexico), 82.64 (Sweden, Switzerland, France), 82.65 (Ireland), 82.66 (Canada, Germany, United Kingdom, Australia, New Zealand), 82.67 (Austria), 82.68 (Netherlands).

¹⁴ A/HRC/13/4, recommendations 82.5 (Morocco), 82.34 (Indonesia, Thailand), 82.38 (Japan), 82.40 (Sweden, Switzerland, New Zealand, Slovakia, Spain), 82.41 (Norway), 82.42 (Israel).

¹⁵ A/HRC/13/4, recommendation 82.43 (Belgium, New Zealand).

¹⁶ Human Rights Council, *Report of the Working Group on the Universal Periodic Review of Chile*, A/HRC/7/12/10, 4 June 2009, paragraph 96.

¹⁷ A/HRC/12/10, recommendations 96.19, 96.20, 96.28 (UK, Italy, Ukraine, Mexico, Sweden, Netherlands).

¹⁸ Law N°20.609, of 24 July 2012, "*Establece medidas contra la discriminación*".

¹⁹ A/HRC/12/10, recommendations 96.38-96.39 (Canada, Italy).

²⁰ A/HRC/12/10, recommendation 96.32-96.33 (Brazil, Uzbekistan).

²¹ A/HRC/12/10, recommendation 96.2 (Brazil, Spain, France, Argentina).

²² A/HRC/12/10, recommendation 96.1 (France, Brazil, Spain, Argentina and Colombia).

in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.²³

Indigenous rights

Despite accepting recommendations regarding the rights of Indigenous Peoples, in particular their rights to consultation, including to seek their free, prior and informed consent regarding legislation or economic developments affecting their lands, these have not been implemented.²⁴ Various government attempts to realize these rights have not been successful.

Chile also accepted recommendations to ensure that the Law Determining Terrorist Conducts is not used to undermine the rights of Indigenous Peoples.²⁵ Amnesty International is concerned, however, that this law continues to be applied. Even though the scope of the law was narrowed in 2010²⁶ and minors excluded from its application in 2011,²⁷ concerns remain regarding the content of the law.²⁸

Use of force

Chile accepted recommendations to strengthen accountability for human rights violations by the police.²⁹ Amnesty International is concerned to note that in the context of demonstrations and protests the police continue to use excessive force, and that these incidents have not been fully investigated.

Military courts

Chile accepted recommendations to end the jurisdiction of military courts over civilians.³⁰ Amnesty International welcomes the reform of the Military Code in 2010, following which civilians are now excluded from military jurisdiction when accused of crimes against the military or police forces.³¹ However, human rights violations by public security personnel continue to be heard in military courts, which Amnesty International considers do not guarantee impartiality and independence.³²

National Human Rights Institutions

Amnesty International welcomes the establishment of the National Human Rights Institute (*Instituto Nacional de Derechos Humanos* - INDH) as recommended in the review.³³ However, Chile does not have an Ombudsperson and the government has yet to develop a National Plan for Human Rights, as called for by several states,³⁴ and which was included in Chile's voluntary commitments.³⁵

²³ The most recent attempt – Bulletin N°6702-07, filed on September 15, 2009 – has not been debated in Congress yet.

²⁴ A/HRC/12/10, recommendations 96.62, 96.63, 96.64, 96.65, 96.66, 96.67 (Bolivia, Bangladesh, New Zealand, Finland, Uruguay, Canada, Denmark, Guatemala, Mexico, Austria, Sweden).

²⁵ A/HRC/12/10, recommendations 96.68, 96.69, 96.70 (Azerbaijan, Switzerland, Netherlands).

²⁶ Law N°20.467, 8 October 2010.

²⁷ Law N°20.519, 21 June 2011.

²⁸ See National Human Rights Institute, 2012 Annual Report, p 28 and ss <http://www.indh.cl/informe2012/Inf%20Anual%20INDH12%20WEB.pdf>

²⁹ A/HRC/12/10, recommendations 96.34, 96.42, 96.43, 96.44 (Azerbaijan, Netherlands, Uzbekistan, Czech Republic).

³⁰ A/HRC/12/10, recommendations 96.46, 96.47, 96.48, 96.49 (France, Nicaragua, Argentina, Spain, Azerbaijan, Switzerland, Czech Republic, Canada).

³¹ Law 20.477, 10 December 2010.

³² This reform was also ordered by the Inter-American Court of Human Rights, *Case Palamara Iribarne v. Chile*, ruling of 22 November 2005.

³³ A/HRC/12/10, recommendation 96.10-96.11 (Nicaragua, Peru, Malaysia, Pakistan, Uzbekistan, Morocco, Bangladesh, Spain, Nigeria, Ghana).

³⁴ A/HRC/12/10, recommendation 96.15 (Ghana, Peru).

³⁵ A/HRC/12/10, paragraph 100.

Sexual and reproductive rights

Amnesty International deeply regrets Chile's rejection of all recommendations related to abortion³⁶ and urges the government to fully enforce legislation ensuring women's sexual and reproductive rights, as recommended in the review and supported by Chile.³⁷

CYPRUS

At the time of its first UPR in 2009, Cyprus accepted a number of recommendations made by other states to improve the human rights situation in the country, including in relation to migrants, refugees and asylum-seekers; however, regrettably many of these have yet to be implemented.

Cyprus accepted a recommendation to examine alternative measures before resorting to detention of irregular migrants.³⁸ However, despite the introduction of legislation providing for prior consideration of less coercive measures before resorting to detention, no such measures are specified in the law and there is no evidence that such measures are considered in practice.

Cyprus also accepted a recommendation to improve detention conditions.³⁹ However, in the course of its research in 2011 and 2012, Amnesty International found that asylum-seekers and irregular migrants were held in conditions falling short of international standards and in non-purpose-built facilities. Despite the operation of a purpose-built facility since January 2013, the Limassol police station and the Nicosia Central Prison reportedly continue to be used to detain individuals for immigration purposes.

DOMINICAN REPUBLIC

During its first UPR in December 2009, the Dominican Republic supported recommendations to “promptly designate the person who will occupy the position of Ombudsman (*Defensor del Pueblo*)”.⁴⁰ However, it was only in May 2013 that the first Ombudsman was appointed and so far no measures have been taken to expedite the creation of an independent national human rights institution in conformity with the Paris Principle, as agreed by the Dominican Republic during the last review.⁴¹

During the last review the Dominican Republic agreed to sign and ratify a number of international human rights conventions;⁴² however, it has ratified only the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 24 January 2012.

Although the Dominican Republic supported recommendations to establish an independent oversight body to investigate complaints of police abuse and human rights violations,⁴³ no action has been undertaken to implement these recommendations.

³⁶ A/HRC/12/10, paragraph 98. Rejected recommendations were made by Sweden (paragraph 24 b) and Finland (paragraph 37 a).

³⁷ A/HRC/12/10, recommendation 96.22 (Spain).

³⁸ Human Rights Council, *Report of the Working Group on the Universal Periodic Review of Cyprus*, A/HRC/13/7, 10 January 2010, recommendation 87.62 (Brazil). See also the Addendum to this report, A/HRC/13/7/Add.1, 15 March 2010.

³⁹ A/HRC/13/7, recommendation 87.46 (Italy)

⁴⁰ Human Rights Council, *Report of the Working Group on the Universal Periodic Review of Dominican Republic*, A/HRC/13/3, 4 January 2010, recommendation 87.2 (Peru)

⁴¹ A/HRC/13/3, paragraph 88.16 (Egypt, France, Mexico, Norway, Peru)

⁴² A/HRC/13/3, paragraphs 88.1-88.11 (Azerbaijan, Belgium, Bolivia, Brazil, Canada, Chile, Colombia, France, Italy, Mexico, Netherlands, Nigeria, Peru, Spain, Uruguay)

The Dominican Republic also supported several recommendations related to combating violence against women and girls, in particular aimed at enhancing the legal framework, criminal prosecution and the protection and care of victims and witnesses.⁴⁴ Amnesty International notes that although some steps have been taken, such as training of relevant officials and the opening of three additional units for integrated assistance of victims, much more needs to be done to implement the recommendations and to eradicate violence against women and girls (see also below).

The Dominican Republic accepted a number of recommendations to combat racism and racial discrimination,⁴⁵ as well as two recommendations on protecting the rights of migrants.⁴⁶ To Amnesty International's knowledge, the Dominican Republic has not taken action to implement any of these recommendations.

Amnesty International regrets that the Dominican Republic rejected the recommendation to ensure that Dominicans of Haitian descent are not denied citizenship or access to civil and birth registration procedures and are not arbitrarily subject to retroactive cancellation of birth and identity documents.⁴⁷

ERITREA

There has been no progress on nearly all of the issues highlighted during the previous UPR of Eritrea and it has failed to implement any of the major recommendations made to it in 2009. During the period under review, no steps were taken to hold free and fair elections, to implement the 1997 Constitution,⁴⁸ to lift restrictions on the rights to freedom expression and association and freedom of religion and belief,⁴⁹ and to release all prisoners of conscience and charge or release other political prisoners.⁵⁰

Despite accepting seven recommendations from 10 countries on the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Eritrea still has not ratified it.⁵¹ Amnesty International is concerned that torture and other ill-treatment are commonplace in Eritrea and used systematically against prisoners of conscience and political prisoners, for the purposes of punishment, interrogation and coercion.

During its first review, Eritrea also supported recommendations on the rights of returnees, stating that "Eritrea

⁴³ A/HRC/13/3, paragraphs 88.17-88.18 (Belgium, Netherlands)

⁴⁴ A/HRC/13/3, paragraphs 87.13- 87.21 and 88.28 (Azerbaijan, Brazil, Chile, Egypt, Holy See, Italy, Netherlands, Norway, Slovenia, Switzerland,

⁴⁵ A/HRC/13/3, paragraph 87.7-87.12 (Algeria, Belgium, Ghana, Mexico, Nigeria, United Kingdom)

⁴⁶ A/HRC/13/3, paragraphs 87.40 (Nicaragua) and 87.42 (Ghana)

⁴⁷ A/HRC/13/3, paragraph 89.4 (United States)

⁴⁸ Human Rights Council, *Report of the Working Group on the Universal Periodic Review of Eritrea*, A/HRC/13/2, 4 January 2010, recommendations 79.15-79.19 (Australia, Canada, Slovakia, Spain, Slovenia).

⁴⁹ A/HRC/13/2, recommendations 79.89 to 79.98 (Australia, Netherlands, Austria, Ireland, Chile, Sweden, Canada, Brazil, Norway).

⁵⁰ A/HRC/13/2, recommendations 79.77 – 79.80 (Canada), 79.82 (Switzerland), 79.95 (Sweden), 79.97 to 79.99 (Brazil, Norway, United Kingdom).

⁵¹ A/HRC/13/2, recommendations 79.1 (Mexico), 79.2 (Azerbaijan), 79.3 (Poland, Turkey, Austria, Norway), 79.4 (Netherlands), 79.8 (Spain), 79.12 (Chile), 79.13 (Switzerland). Eritrea accepted these recommendations stating that "these recommendations are consistent with Eritrea's laws. Article 417 of the Transitional Penal Code treats torture as a criminal offence". However, this statement is not a clear and sufficient acceptance of the recommendation. See: A/HRC/13/2/Add.1.

encourages and facilitates the return of its citizens to their country”.⁵² However, Eritrean asylum-seekers whose applications have been rejected or who have not been granted access to asylum procedures, and are then forcibly returned to Eritrea continue to be arbitrarily arrested and detained without charge.

Eritrea further accepted recommendations on cooperating with the UN Special Procedures and treaty bodies.⁵³ However, no progress has been made on this front. The requests of the UN Special Rapporteur on the human rights situation in Eritrea for access to the country have not been granted since her appointment in 2012. Other requests for visits by Special Procedures of the Human Rights Council have also been ignored.⁵⁴

MACEDONIA

During the first UPR of Macedonia in 2009, reviewing states made recommendations on a range of issues, including enforced disappearances,⁵⁵ discrimination,⁵⁶ including against LGBT persons⁵⁷ and Romani women and girls,⁵⁸ freedom of expression,⁵⁹ and the rule of law and the justice system.⁶⁰

Since 2008, with respect to discrimination, an Anti-Discrimination Law was introduced in 2010; however, it fails to meet international standards, particularly with respect to the protection of LGBTI people, and is yet to be fully implemented.

Some positive measures have been taken to improve the rights of the Roma population. However, the government’s lack of commitment to implement the Decade of Roma Inclusion Action Plans is lamentable. No progress has been made with respect to the rights of Romani women.

Despite the decriminalization of defamation in 2012, freedom of the media has been curtailed and remains under threat due to restrictive legislation and increasing political control.⁶¹

In the context of rule of law and the justice system, Amnesty International considers that the previous review did not adequately address the issue of impunity for crimes under international law, despite this being one of the outstanding

⁵² Human Rights Council, *Report of the Working Group on the Universal Periodic Review of Eritrea Addendum*, A/HRC/13/2/Add.1, 8 March 2010, Para. 33, The rights of returnees.

⁵³ A/HRC/13/2, recommendations 79.24 to 79.32 (Brazil, Netherlands, Turkey, Chile, Spain, Ireland, Azerbaijan, Latvia, Norway). The government of Eritrea accepted these recommendations. See: A/HRC/13/2/Add.1 Paras. 15 and 16.

⁵⁴ UN Special procedures have not been granted country visits by the Eritrean authorities despite several requests. These include the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (invitation requested in 2003, renewed in 2005); the Special Rapporteur on freedom of religion or belief (2004); the Special Rapporteur on the right to food (2003); the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (2005, 2007, and 2010), and the Special Rapporteur on extrajudicial, summary, or arbitrary executions (2010).

⁵⁵ Human Rights Council, *Report of the Working Group on the Universal Periodic Review of Macedonia*, A/HRC/12/15, recommendation 77.2 (Croatia, Argentina, France), as accepted by The Former Yugoslav Republic of Macedonia.

⁵⁶ A/HRC/12/15, recommendation 77.13 (Czech Republic, Croatia, Albania, Canada).

⁵⁷ A/HRC/12/15, recommendation 77.18 (Denmark).

⁵⁸ A/HRC/12/15, recommendation 77.16, including to “step up efforts to ensure access to education, health, employment and participation in political public life for women, in particular rural and ethnic minority women” (Norway, Malaysia)

⁵⁹ A/HRC/12/15, recommendation “Adopt all necessary measures to ensure freedom of expression and to prevent any interference with press freedoms (Switzerland)”.

⁶⁰ A/HRC/12/15, recommendation 77.26, “Consolidate the independence and overall capacity of the judicial system” (Slovenia).

⁶¹ As reflected in the news release issued on 21 June 2013, by the UN Special Rapporteur on the rights to freedom of opinion and expression, on the conclusion of his visit to Macedonia,
<http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=13479&LangID=E>

human rights concerns in Macedonia. Only one recommendation related to this issue was made in 2009, which called on Macedonia to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.⁶² Macedonia signed this in 2007, but has yet to ratify it.

NEW ZEALAND

Amnesty International welcomes New Zealand's engagement with the UPR and notes that it responded favourably to a number of recommendations made by other states during its first review in May 2009, including recommendations related to the elimination of violence against women, child abuse and equality and non-discrimination.⁶³ Amnesty International notes, however, that many of New Zealand's responses were unclear as to the extent to which they supported certain recommendations,⁶⁴ making it difficult to ascertain what level of commitment New Zealand made to implement these recommendations.

Violence against women

New Zealand continues to have high rates of violence against women with a 2011 UN Women report finding that between 2000 and 2010 30 percent of women in New Zealand experienced physical violence from intimate partners. These figures are even more concerning as many cases go unreported.⁶⁵

While Amnesty International welcomes the government's pledge to support the UN Women's Initiative, 'COMMIT', to end violence against women and girls,⁶⁶ there are few government-sponsored initiatives which focus solely on ending domestic violence and other violence against women. Other government initiatives around family violence have been implemented which do not always appropriately address the issue of domestic violence.⁶⁷ For example, within the Family Court there have been instances where women have been forced to attend couple counselling with their abusers.⁶⁸ A further example is the government's proposed Family Court Proceedings Reform Bill.⁶⁹ While the Bill does exclude cases of domestic violence from mandatory mediation or family dispute resolution, research has shown that victims of domestic violence do not always disclose such information,⁷⁰ and may therefore have to take part in initiatives that are inappropriate for addressing domestic violence.

⁶² A/HRC/12/15, recommendation 77.2 (Croatia, Argentina, Argentina, France). There was no specific response in relation to enforced disappearance, however in the introduction of the Addendum (A/HRC/12/15/Add.1) FYR Macedonia states; para.1; "the recommendations are not commented herewith, but are fully acceptable". This can be taken to mean that Macedonia does accept this recommendation, if in a very general sense.

⁶³ Human Rights Council, *Report of the Working Group on the Universal Periodic Review on New Zealand*, 4 June 2009, A/HRC/12/8

⁶⁴ Human Rights Council, *Report of the Working Group on the Universal Periodic Review on New Zealand*, 7 July 2009, A/HRC/12/8, Add.1.

⁶⁵ Women's Refuge notes that Police estimate only 18% of domestic violence incidents are reported <https://womensrefuge.org.nz/WR/Domestic%20violence/Statistics.htm>. In addition, a 2010 study found that only 12.8% of women experiencing violence spoke to the police. See Fanslow, J. L. & Robinson, E. M. (2010). Help-seeking behaviours and reasons for help seeking reported by a representative sample of women victims of intimate partner violence in New Zealand. *Journal of Interpersonal Violence*, 25(5), 929-951. doi: 10.1177/0886260509336963

⁶⁶ Press release made by Jo Goodhew, Minister of Women's Affairs, 6 March 2013, available at <http://www.beehive.govt.nz/release/nz-commits-comprehensive-approach-towards-ending-violence-against-women-and-girls>

⁶⁷ The Auckland Coalition for the Safety of Women and Children (February 1013), *Submission to the Family Court Proceedings Bill 2013*, available at http://www.awc.org.nz/userfiles/16_1361329606.pdf

⁶⁸ The Auckland Coalition for the Safety of Women and Children (February 1013), *Submission to the Family Court Proceedings Bill 2013*, available at http://www.awc.org.nz/userfiles/16_1361329606.pdf

⁶⁹ *Family Court Proceedings Reform Bill 90-2* (June 2013), can be accessed at <http://www.legislation.govt.nz/bill/government/2012/0090/20.0/versions.aspx>

⁷⁰ The Auckland Coalition for the Safety of Women and Children (February 1013), *Submission to the Family Court Proceedings Bill 2013*, available at http://www.awc.org.nz/userfiles/16_1361329606.pdf

In addition, while initiatives such as Police Safety Orders, under which an alleged violent person may be removed from the home for up to five days,⁷¹ are welcomed, these do not adequately address the root causes of such violence and provide only short-term safety arrangements for those at risk.

UN Women also reported that 12 percent of women experienced sexual violence from an intimate partner between 2000 and 2010.⁷² In view of this, it is concerning that the Taskforce for Action on Sexual Violence was disbanded in 2009 after only two years of operating. The Taskforce's 2009 report provided 71 recommendations for the prevention of and response to sexual violence.⁷³ However, four years on, many of these recommendations have not been implemented, including the implementation of the National Sexual Violence Prevention Plan and annual monitoring of progress.

Child abuse

Levels of child abuse in New Zealand remain alarmingly high with 11,466 substantiated reports of child abuse to the Child Youth and Family service⁷⁴ between 1 July and 31 December 2012; up from 10,734 the previous year.⁷⁵

In response to this, the government released a White Paper in October 2012 setting out a comprehensive strategy involving data collection, indicators, targets, and accountability in relation to child abuse.⁷⁶ A Children's Action Plan was also released by the government.⁷⁷

While Amnesty International welcomes these steps, it remains concerned that the government has taken a narrow focus to addressing child abuse and not looked at the relationship between child abuse and contributing factors such as domestic violence⁷⁸ and poverty.⁷⁹

⁷¹ Since 1 July 2010, the police are able to issue Police Safety Orders (PSO's). Further information on PSO's is available at <http://www.police.govt.nz/safety/home.domesticviolence.html#police-safety-order>

⁷² UN Women (2011), *Progress of the Worlds Women: In Pursuit of Justice*, available at <http://progress.unwomen.org/pdfs/EN-Report-Progress.pdf>

⁷³ Taskforce for Action on Sexual Violence (2009), *Report of the Taskforce for Action on Sexual Violence*, available at <http://www.justice.govt.nz/policy/supporting-victims/taskforce-for-action-on-sexual-violence/policy-and-consultation/taskforce-for-action-on-sexual-violence/documents/tasv-report-full>

⁷⁴ Child Youth and Family is a service of the Ministry of Social Development that works to promote and protect the safety and wellbeing of children and families. More information available at: <http://www.cyf.govt.nz/about-us/who-we-are-what-we-do/index.html>

⁷⁵ Further information available at <http://www.cyf.govt.nz/cyf-newsletter/awhi-mai-awhi-atu-issue-4/latest-child-abuse-statistics-tell-interesting-story.html>

⁷⁶ The Government's White Paper for Vulnerable Children Volume I makes a number of proposals for improving the outcomes of vulnerable children in New Zealand, with a focus on those who are at risk of maltreatment. Ministry of Social Development (December 2012), *The White Paper for Vulnerable Children Volume I*, available at <http://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/policy-development/white-paper-vulnerable-children/white-paper-for-vulnerable-children-volume-1.pdf>. The White Paper for Vulnerable Children Volume II outlines the evidence and rationale for the plans. Ministry of Social Development (December 2012), *The White Paper for Vulnerable Children Volume II*, available at <http://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/policy-development/white-paper-vulnerable-children/whitepaper-volume-ii-web.pdf>

⁷⁷ The Children's Action Plan sets out the actions to be taken in relation to the Government's plans set out in The White Paper for Vulnerable Children Volume I and the timeframes. Ministry of Social Development (October 2012), *Children's Action Plan*, available at <http://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/policy-development/white-paper-vulnerable-children/white-paper-for-vulnerable-children-childrens-action-plan-summaries.pdf>

⁷⁸ Half of all Care of Children cases heard in the Family Court involve domestic violence. See Ministry of Justice (20 September 2011), *Reviewing the Family Court: A public consultation paper*, can be accessed at <http://www.justice.govt.nz/publications/global-publications/f/family-court-review-public-consultation-paper/publication>

Equality and non-discrimination

Health, education, employment and income inequalities persist at alarming levels in New Zealand, with the highest nationally recorded level of income inequality among the general population recorded in 2011.⁸⁰ Inequalities disproportionately affect Māori and Pacific populations⁸¹ and the New Zealand Human Rights Commission has raised institutional bias (structural discrimination) as a contributing factor to these inequalities.⁸²

Following recommendations by the Committee on Economic, Social and Cultural Rights in 2012 to address institutional bias in the delivery of public services, Iwi (Tribes) and the police have developed an innovative strategy aimed at reducing victimisation among Māori.⁸³ It is regrettable, however, that similar strategies to address institutional bias are yet to be developed across all public service sectors, including health, education and justice.

These inequalities extend to civil and political rights where, for example, Māori continue to be over-represented within the criminal justice system. Māori comprise 50 percent of the total prison population, but only 15 percent of the general population.⁸⁴ In 2011, the Ministry of Justice refused to acknowledge and address any possible institutional bias in this regard.⁸⁵

SLOVAKIA

In its response to the recommendations made during the first UPR of Slovakia in 2009, the government declared that the protection of the rights of minorities, including Roma, represented one of its priorities.⁸⁶

In the previous review, Slovakia rejected a recommendation to enact and implement new legislation as well as practical measures to end discriminatory practices against Roma in the education system.⁸⁷ The

⁷⁹ Poverty has been found to be a key risk factor in child abuse. For a discussion, see Child Poverty Action Group (June 2013), *Child Abuse: What role does poverty play?*, available at <http://www.cpag.org.nz/assets/Publications/130610%20CPAG%20Child%20Abuse%20Report%201%20June%202013.pdf>

⁸⁰ Perry, B. *Household Incomes in New Zealand: Trends in Indicators of Inequality and Hardship 1982 to 2011*. Wellington: Ministry of Social Development (2012). Can be accessed at <http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/monitoring/household-incomes/>

⁸¹ For example, 50% of poor children in New Zealand come from Maori or Pacific Island backgrounds. See report on Household Incomes in New Zealand at endnote 19 above

⁸² New Zealand Human Rights Commission *A fair go for all? Rite tahi tātou katoa? Addressing Structural Discrimination in Public Services* (2012) available at http://www.hrc.co.nz/wp-content/uploads/2012/08/HRC-Structural-Report_final_webV1.pdf

⁸³ New Zealand Police *The Turning of the Tide – a Whanau Ora Crime and Crash Prevention Strategy*, (2012), available at <http://www.police.govt.nz/sites/default/files/resources/the-turning-of-the-tide-strategy.pdf>

⁸⁴ Corrections NZ, *Over Representation of Maori in the Criminal Justice System*, 2007 available at http://www.corrections.govt.nz/_data/assets/pdf_file/0004/285286/Over-representation-of-Maori-in-the-criminal-justice-system.pdf

⁸⁵ In the New Zealand's Government's document on implementation of UPR recommendations, the Ministry of Justice state that "the New Zealand Government does not consider that this over-representation [of Māori in the criminal justice system] is due to institutional bias." The Ministry of Justice (July 2011), *UPR Progress Chart*, paragraph 33. Can be accessed at <http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/international-human-rights-instruments/universal-periodic-review/upr-documents-relating-to-new-zealand-1/upr-documents-relating-to-new-zealand>

⁸⁶ Human Rights Council, *Report of the Working Group on the UPR of Slovakia*, A/HRC/12/17/Add.1, 14 September 2009, para. 21

⁸⁷ Human Rights Council, *Report of the Working Group on the UPR of Slovakia*, A/HRC/12/17, 5 June 2009, recommendation no. 72 (Austria)

government argued that the existing legislative guarantees were sufficient and that current legislation prohibited all forms of discrimination, in particular segregation.⁸⁸

Slovakia also rejected a recommendation to develop and implement a strategy to address the disproportionate enrolment of Roma children in special schools.⁸⁹ In setting out its position on the recommendation, the government stated that the Schools Act provides clear criteria for enrolling children in “specialized schools or classes” and that “children and pupils with health disabilities are clearly distinguished from children and pupils coming from a socially disadvantaged environment”.⁹⁰

On the other hand, Slovakia did accept a recommendation to adopt time-bound measures to increase access for Roma children and children with disabilities to inclusive education in mainstream schools.⁹¹

Amnesty International greatly regrets the rejection of the recommendations to implement measures to end discrimination of Roma in education and considers that the government has so far failed to effectively address this problem. While Amnesty International appreciates that Slovakia made a commitment to increase access by all pupils to inclusive education, specific measures to put this commitment into practice have so far been lacking. As a result, Romani pupils continue to experience discrimination in access to education and continue to be overrepresented in special education and/or in segregated Roma-only education.

URUGUAY

During its previous review in 2009, Uruguay accepted all of the 88 recommendations made to it by other states.⁹² Amnesty International considers, however, that some of these recommendations have been only partially implemented, particularly those pertaining to impunity for crimes committed under the past military and civilian regimes, and to prison conditions.

Impunity for past human rights violations

Uruguay supported recommendations to abolish laws leading to impunity for human rights violations committed during the military and civilian regimes in 1973-1985, in particular Law 15.848 (1986) on the Expiration of Punitive Claims of the State (*Ley de Caducidad de la Pretensión Punitiva del Estado* - also known as the Expiry Law) and to take steps to make progress in the investigations into these crimes.⁹³ Amnesty International considers that despite some positive actions, truth, justice and reparations for the victims of crimes of the past have still not been achieved. In October 2011, the adoption of Law 18.831 by Parliament was an important step towards tackling past impunity in stipulating that crimes against humanity are not subject to statute of limitations and thereby allowing the judiciary to prosecute crimes previously covered by the Expiry Law. However, in a later ruling in March 2013, the Supreme Court declared key articles of Law 18.831 unconstitutional in a major set-back to achieving justice for human rights violations committed between 1973 and 1985. In effect, the Supreme Court decision brought the Expiry Law back to life.

Prison conditions

Despite accepting recommendations to improve prison conditions, measures taken by Uruguay in recent years

⁸⁸ [Government] Presentation on the occasion of the adoption of the outcome of the Universal Periodic Review of the Slovak Republic, 25 September 2009, Geneva, p.3.

⁸⁹ A/HRC/12/17, recommendations no. 75 (New Zealand) and no. 76 (Japan)

⁹⁰ A/HRC/12/17/Add.1, para. 28

⁹¹ A/HRC/12/17, recommendation no. 77 (New Zealand)

⁹² Human Rights Council, *Report of the Working Group on the Universal Periodic Review*, 12th session, A/HRC/12/12, 4 June 2009, paragraph 78.

⁹³ A/HRC/12/12, recommendations 78.64-78.66 (Czech Republic, Colombia, Germany).

fall short of fulfilling its international human rights obligations in this area.⁹⁴ Overcrowding in some prisons remains a concern, some aspects of prison infrastructure have not improved, and the healthcare provision in prisons remains inadequate, according to national and international bodies that monitor prisons.⁹⁵

Amnesty International welcomes the appointment by Congress of the Board of Directors of the National Human Rights Institution (*Institución Nacional de Derechos Humanos*) in May 2012. The Institution has among its main tasks to function as the National Mechanism for the Prevention of the Torture, as established by the Optional Protocol to the Convention against Torture.⁹⁶

VIET NAM

Amnesty International welcomes Viet Nam's acceptance of 98 recommendations made to it in the UPR Working Group in May 2009.⁹⁷ Amnesty International is concerned, however, that despite Viet Nam's expression of support little has been done to implement recommendations to guarantee freedom of expression for dissidents and human rights defenders and with regard to the death penalty. It is disappointing that Viet Nam rejected a number of other recommendations in these areas.⁹⁸

Freedom of expression

No discernible progress has been made in implementing recommendations to guarantee the right to freedom of expression.⁹⁹ The right to freedom of expression is also indirectly encompassed in recommendations, which Viet Nam supported, to strengthen institutional mechanisms for the implementation of international conventions to which Viet Nam is a party¹⁰⁰ and to review national legislation, such as the 1999 Penal Code and 2003 Criminal Procedure Code, to ensure consistency with its international human rights commitments.¹⁰¹ No progress has been made to implement these recommendations either.

The death penalty

Since the previous review, Viet Nam has made some welcome progress in reducing the scope of the death penalty, as recommended by two States.¹⁰² The number of capital crimes now stands at 21, compared to 29 previously. However, there has been no change regarding the lack of transparency in the use of the death penalty, as recommended by one State,¹⁰³ with statistics classified as a "state secret" since January 2004.

⁹⁴ A/HRC/12/12, recommendations 78.52- 78.60, 78.63, 78.68- 78.70 (Canada, Azerbaijan, Portugal, Spain, Italy, Turkey, Netherlands, Belgium, Chile and Finland).

⁹⁵ Report of the UN Special Rapporteur on Torture following his visit to Uruguay, 2-6 December 2012 (A/HRC/13/39/Add.2) and the 2012 Report of the Parliamentary Commissioner for Prisons in Uruguay.

⁹⁶ A/HRC/12/12, recommendation 78.39 (United Kingdom).

⁹⁷ Human Rights Council, *Report of the Working Group on the Universal Periodic Review of Viet Nam*, A/HRC/12/11, 5 October 2009, recommendations 99 and 101 (A/HRC/12/11)

⁹⁸ A/HRC/12/11, paragraph 102: Viet Nam indicated that it did not support the following recommendations pertaining to freedom of expression: 35 (e) (Canada), 41 (b) (Norway), 63 (c) (Finland), 64 (d) (Germany), 66 (a) (United States), 66 (b) (United States), 85 (a) (France), and the following recommendations on the death penalty: 59 (c) (New Zealand), 63 (d) (Finland), 64 (e) (Germany).

⁹⁹ A/HRC/12/11, recommendation 99.44 (Argentina); 99.45 (Italy), 99.47 (Sweden), and 99.52 (Republic of Korea).

¹⁰⁰ A/HRC/12/11, recommendation 99.12 (Burkina Faso).

¹⁰¹ A/HRC/12/11, recommendation 99.11 (United Kingdom, Australia).

¹⁰² A/HRC/12/11, recommendation 99.33 (Norway, Germany).

¹⁰³ A/HRC/12/11, recommendation 99.32 (Switzerland).

YEMEN

In its first UPR in 2009, Yemen accepted 125 recommendations, rejected 14 and gave no clear position on a further three.¹⁰⁴

Amnesty International regrets that Yemen rejected recommendations to become party to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women,¹⁰⁵ to impose a moratorium on executions, or progressively and significantly reduce the use of the death penalty with a view to abolishing it,¹⁰⁶ and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights.¹⁰⁷ It also regrets that Yemen gave no clear response to recommendations to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.¹⁰⁸

Amnesty International welcomes steps taken by Yemen, especially since 2012, to improve the overall human rights situation of the country by implementing some of the recommendations it accepted in the first UPR in 2009, in particular, strengthening co-operation with UN mechanisms,¹⁰⁹ taking steps to establish an independent national human rights commission,¹¹⁰ advancing the role of women in society and decision-making,¹¹¹ and taking concrete steps towards ensuring effective birth registration.¹¹²

However, Amnesty International regrets that key accepted recommendations have been left unimplemented by the Yemeni authorities. Discrimination and violence against women do not seem to have been addressed in either law or practice.¹¹³ Child marriages, especially of young girls, continue to take place and a draft law to impose a minimum age of 17 has not been approved since it was introduced in 2009.¹¹⁴ Juvenile offenders continue to be executed largely because of the lack of birth certificates, adequate training of the judiciary and good practices for determining age.¹¹⁵ Furthermore, violations and abuses by security forces and armed non-state actors, often committed in the context of armed conflict, have resulted in unlawful killings and injuries, enforced disappearances, arbitrary detention, and mass displacement of civilians.

¹⁰⁴ Human Rights Council, *Report of the Working Group on the Universal Periodic Review of Yemen*, A/HRC/12/13, 5 June 2009; and Human Rights Council, *Report of the Working Group on Universal Periodic Review of Yemen Addendum*, A/HRC/12/13/Add.1, 23 September 2009.

¹⁰⁵ A/HRC/12/13/Add.1, recommendation 93.1 (Netherlands).

¹⁰⁶ A/HRC/12/13, recommendations 94.3 (Sweden, Italy, and Netherlands), 94.4 (United Kingdom), 94.5 (Canada), 94.6 (Mexico), 94.7 (Hungary), 94.8 (Netherlands and Brazil).

¹⁰⁷ A/HRC/12/13, recommendation 94.1 (Portugal).

¹⁰⁸ A/HRC/12/13, recommendation 93.3 (Argentina).

¹⁰⁹ A/HRC/12/13, recommendation 91.24 (Germany).

¹¹⁰ A/HRC/12/13, recommendation 91.9 (Algeria and Jordan).

¹¹¹ A/HRC/12/13, recommendation 91.34 (Bahrain).

¹¹² A/HRC/12/13, recommendation 91.6 (Norway).

¹¹³ A/HRC/12/13, recommendations 91.31 (United Kingdom), 91.22 (Canada), 91.45 (Germany), and A/HRC/12/13/Add.1, recommendations 93.10 (Norway), 93.12 (Sweden) and 93.13 (United States).

¹¹⁴ A/HRC/12/13, recommendation 91.96 (Canada), and A/HRC/12/13/Add.1, recommendations 93.6 (Austria) and 93.11 (Netherlands).

¹¹⁵ A/HRC/12/13, recommendations 91.55 (Canada), 91.56 (Mexico), 91.57 (Hungary), and 91.58 (Denmark).