



## **Compilation of recommendations to the countries under review during the second session of the UPR Working Group 5-16 May 2008**

### **Recommendations to the government of Benin**

#### **Use of force by police**

- To ensure that all reported incidents of excessive use of force by police authorities and special forces are promptly investigated and that those responsible are brought to justice in line with international standards;

#### **Prison conditions**

- To put in at place effective measures to ensure that prison conditions are consistent with international standards all stages of detention;

#### **The death penalty**

- To adopt a moratorium on executions with a view to permanently abolish the death penalty in the criminal code;
- To ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty;

#### **International justice**

- To enact the draft legislation implementing the Rome Statute into national law with the necessary provisions to bring it in line with international standards and give full implementation to the Rome Statute.

### **Recommendations to the government of France**

#### **Asylum seekers**

- To respect its obligations under international law not to forcibly return any individual to a country where they may be at risk of serious human rights violations, including torture or other ill-treatment;
- To review its asylum legislation and procedures to ensure that all asylum seekers, including those whose claims are being assessed under the accelerated procedure, receive a full and fair individualized determination of their claim, including the right of appeal with suspensive effect to an independent body;

### **Administration of justice**

- To create an independent and fully resourced mechanism to investigate all allegations of serious human rights violations by law enforcement officials. This mechanism should ultimately replace the investigative functions of the *Inspection Générale de la Police Nationale* (IGPN), *Inspection Général des Services* (IGS) or *Inspection Gendarmerie Nationale* (IGN) in cases of allegations of serious human rights violations, and should be directly accessible to individual complainants. It should have the power to decide that disciplinary proceedings be instigated against law enforcement officials and to send a case directly to the prosecuting authorities in order that they pursue criminal charges as appropriate;
- To introduce safeguards against human rights violations in police custody, including video and audio recording facilities in areas of police stations and any other places where detainees may be held, except where this would violate their right to consult in private with a lawyer or doctor;
- To ensure that police officers are identifiable by members of the public at all times via individual identity number badges and that police officers be obliged to state their identity number to members of the public on request;
- To amend current legislation (*Loi du 23 janvier 2006*) to ensure that all detainees enjoy effective access to a lawyer from the outset of police custody and throughout the period of detention;
- To incorporate in the Penal Code a full definition of torture in conformity with the definition of torture set out in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

### **Violence against women**

- To develop and implement legislation to prevent, prosecute, punish and compensate gender-based violence against women on French territory, including in the context of trafficking of persons for prostitution;
- To ensure that staff in the health, legal, policing and educational sectors receive on-going training to enable them to identify and assist women affected by gender-based violence.

### **Ratification and cooperation with treaty monitoring bodies**

- To ratify without delay the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Convention for Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities, all of which France has already signed;
- To sign and ratify the International Convention on the Rights of All Migrant Workers and Members of their Families and the Optional Protocol to the Convention on the Rights of Persons with Disabilities;
- To withdraw its reservations to the Convention on the Elimination of All Forms of Discrimination against Women;
- To submit without further delay all outstanding reports to the Treaty Monitoring Bodies, in particular to the Committee for the Elimination of Discrimination against Women and the Committee on the Rights of the Child;

## **Recommendations to the government of Ghana**

### **Administration of justice**

- To ensure that all courts to establish effective (electronic) records of prisoners, both those awaiting trial and those who appeal, and that they review such cases. (In its national report, the Ghanaian government expresses its concerns about the issue of remand prisoners, since some trials are delayed.)
- To ensure that all suspects in detention are charged with a recognizable criminal offence or released; and to systematically review all cases of inmates awaiting trial to ensure that their right to a fair trial within a reasonable time is guaranteed;
- To ensure that the police keep an official register of the arrests and detention of suspects, which records the name of the suspect, the reason for arrest, the date and time of the arrest, the charge against them, the date and time of their first appearance before a judge, and the identity of the law enforcement officials concerned with their case. (Ghana states in its national report that it has made major inroads in mainstreaming human rights into policing, and that the government is aware there is room for further improvement.)
- To address the problem of overcrowding in Ghanaian prisons, including by ensuring that prison conditions are brought up to the level required by international standards, including the UN Standard Minimum Rules for the Treatment of Prisoners, and that NGOs and civil society organizations have access to the prisons;

### **The death penalty**

- To adopt a moratorium on executions with a view to abolishing the death penalty in national legislation, and to commute all death sentences;

### **Forced evictions**

- To immediately cease forced evictions in all areas of Ghana and to ensure, as a matter of urgency, that all evictees are provided with basic shelter and housing as well as access to food, safe drinking water and sanitation, and medical services;
- To establish an independent commission of inquiry into allegations of human rights abuses in the context of the forced evictions from the Dudzorme Island in 2006;

### **Violence against women**

- To ensure that effective measures are in place to fully implement national legislation to eradicate domestic violence and female genital mutilation; that prompt and effective investigations are carried out into all allegations of domestic violence and female genital mutilation; and that those responsible are brought to justice in trials that meet international standards for fairness;

### **Past human rights violations**

- To ensure the full implementation of the recommendations by the National Reconciliation Commission with regard to the serious human rights violations carried out since 1957 by former Ghanaian governments.

## **Recommendations to the government of Guatemala**

### **Human rights violations in the context of land disputes**

- To create a mechanism for the peaceful resolution of disputes over land and to establish a moratorium on forced evictions until such a mechanism is in place;
- To ensure that excessive force is not used during forced evictions, and that proper training relating to evictions is provided to the police, including on the UN Basic principles on the use of force and firearms by law enforcement officials;
- To suspend the Law of Supplementary Titles and to amend articles of the Labour Code relating to labour entitlements as well as articles of the criminal code relating to usurpation;

### **Violence against women**

- To ensure the effective investigation and prosecution of all killings of women in Guatemala, and ensure that police officers, prosecutors and officials of the judicial system treat the relatives of the victims with respect and refrain from making statements that dismiss or discredit the seriousness of the crime of murder;
- To develop and enact legislation to eliminate discriminatory provisions, including through reform of articles 106 and 180 of the criminal code, and strengthen the protection of the rights of women;

### **Human rights defenders**

- To ensure that human rights defenders are free to carry out their activities without any restrictions or fear of reprisals, as set out in the 1999 UN Declaration on the Rights and Responsibilities of Individuals, Groups and Institutions to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms;
- To ensure that reports of killings, threats, attacks and acts of intimidation against human rights defenders are thoroughly and promptly investigated and those responsible brought to justice.

### **Public security**

- To ensure effective and independent investigations into all reports of torture and extrajudicial executions by members of the security forces, including of minors;
- To address the investigative and prosecutorial deficiencies in the administration of justice by setting out a timetable for the full implementation of all outstanding recommendations by the UN, in particular by the Special Rapporteur on the independence of judges and lawyers in his 2001 report;
- To ensure adequate funding of the National Institute of Forensic Sciences (*Instituto Nacional de Ciencias Forenses*, INACIF) to strengthen forensic evidence on gender related killings;

### **Impunity for past violations of human rights**

- To ensure, as a matter of priority, that all human rights violations committed during the internal armed conflict which ended in 1996 are investigated and prosecuted either in Guatemala or abroad without further delay and in accordance with international standards for fair trial;
- Following the announcement by the President in January 2008 that military archives will be opened up, to ensure that military documents relevant to cases of human rights

violations committed during the internal armed conflict are released without delay and in their complete form to domestic and foreign courts that may request such documents;

- To devote significant efforts to locate those disappeared during the internal armed conflict, starting with the approval of the Commission for Locating the Disappeared;
- To ratify the UN Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity;

## **Recommendations to the government of Japan**

### **The death penalty**

- To introduce a formal moratorium on executions as a first step toward abolition of the death penalty;

### **The *daiyo kangoku* prison system**

- To take steps to abolish the *daiyo kangoku* system or bring it in line with international standards, and to immediately implement safeguards, such as explicit directives for prompt and unhindered access to legal counsel as well as electronic recording of all interrogations;

### **Women's human rights**

- To accept full responsibility and apologize unreservedly for the 'comfort women' system in a way that is acceptable to the majority of the women concerned and that publicly acknowledges the harm suffered by these women and that restores the dignity of the survivors, including by providing adequate compensation;

### **Counter-terrorism legislation**

- To revise the counter-terrorism law to bring it in line with international standards, including by establishing mechanisms of effective appeal against inclusion in a 'watch list';

### **Asylum-seekers**

- To revise the Immigration Control and Refugee Recognition Act to prohibit the return of asylum-seekers to countries where they are at risk of torture or other ill-treatment;

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

- To sign and ratify the first Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- To implement, as a matter of urgency, the recommendations of all UN human rights treaty monitoring bodies, including by ensuring that adequate domestic legislation is developed and implemented.

## **Recommendations to the government of Pakistan**

- To ensure the independence of the judiciary, including by putting in place strict rules and a clear mechanism for the appointment and removal of judges. This mechanism should ensure that judges are free from intimidation or undue influence and have security of tenure. The judges who were extra-constitutionally removed from their offices during the recent emergency rule should be reinstated;
- To take measures to ensure that the Constitution and constitutional protection of human rights are not arbitrarily set aside, and to undo the distortion of the Constitution over recent years;
- To put an immediate end to all acts of enforced disappearance, immediately release all persons held in secret detention or transfer them to official places of detention where they have access to lawyers and medical assistance, are charged with a criminally recognizable offence and remanded by an independent court. The government must further ensure that those responsible for enforced disappearances are brought to justice in fair proceedings, and that full reparations are provided to the victims of enforced disappearance and their families. In this respect Pakistan should sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearances;
- To declare an immediate moratorium on all executions, with a view to the eventual abolition of the death penalty;
- To strengthen the protection of human rights by ratifying, incorporating into domestic legislation and implementing international human rights treaties, in particular, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Pakistan recently signed;
- To ensure the full implementation of those treaties to which Pakistan is already a party, in particular the Convention on the Elimination of All forms of Discrimination against Women, the Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights;
- To put in place measures to ensure protection against arbitrary detention;
- To ensure effective and independent investigations into all reports of torture and other ill-treatment and to bring to justice those responsible in accordance with international standards for fair trial.

## **Recommendations to the government of Peru**

- To reduce maternal and infant mortality, including by establish mechanisms to monitor, evaluate and report on the implementation of directives to ensure access to health care for women and children in marginalized communities;
- To remove from domestic legislation all provisions allowing for the death penalty and to reject attempts to extend the use of the death penalty for further crimes, in line with the American Convention of Human Rights.

- To ensure the full implementation of the recommendations of the Truth and Reconciliation Commission, including the prompt, impartial and effective investigation into all cases of human rights violations committed during the 20-year armed conflict, the strengthening of the witness protection program; the bringing to justice of those responsible in trials that meet international standards of fairness; and the granting of adequate redress to the victims and their relatives;
- To permanently close down, as a matter of urgency, the prison facility in Challapalca and to take measures to ensure prison conditions elsewhere in the country are improved in line with international standards.
- To ensure that human rights defenders, including victims of human rights violations, witnesses, prosecutors, forensic experts, journalists and trade union workers, can carry out their human rights work freely and without fear of intimidation.

## **Recommendations to the government of the Republic of Korea**

### **Rights of migrant workers**

- To protect the human rights of migrant workers, including irregular migrant workers, to be free from cruel, inhuman or degrading treatment or punishment; not to be subject to arbitrary detention and expulsion without due process; to be free from abuses of their economic, social and cultural rights; and by respecting their rights to form trade unions;
- To take measures to respect, protect and fulfill the rights of all women migrant workers and ensure that they are not subjected to discriminatory practices and other human rights abuses at their workplace, such as sexual and other forms of gender-based violence and discrimination;
- To ratify and implement the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and relevant ILO Conventions, including the four ILO Fundamental Conventions highlighted in South Korea's pledge issued prior to its election to the Human Rights Council: Freedom of Association and Protection of the Right to Organise Convention (No 87); Right to Organise and Collective Bargaining Convention (No. 98); Forced Labor Convention (No 29); Abolition of Forced Labor Convention (No 105);
- To further ratify and implement ILO Migration for Employment Convention (No 97) and Migrant Workers (Supplementary Provisions) Convention (No 143);

### **The death penalty**

- To introduce a formal moratorium on executions as a step toward abolition of the death penalty and to expedite passage into law of the Special Bill to Abolish the Death Penalty in the National Assembly;

### **Detention facilities**

- To ensure that conditions at detention facilities are consistent with international law and standards;

### **Ratification and lifting of reservations**

- To ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

- To fully uphold the obligation under Article 22 of the International Covenant on Civil and Political Rights concerning the right to freedom of association and to remove the reservation on this article so as to guarantee the protection of this important right in national legislation;

#### **National security legislation**

- To take concrete steps to abolish the National Security Law, or otherwise amend it to bring it into line with international standards regarding clarity of criminal law, and freedom of expression and association.

### **Recommendations to the government of Romania**

#### **Secret detention**

- To initiate an effective, impartial and independent investigation into allegations that a secret detention facility was operated on Romanian territory, that individuals were secretly detained in this facility, outside of the rule of law, and that persons unlawfully deprived of their liberty were flown into and over the territory of Romania in the context of the US-led renditions programme. (The findings of the investigation should be made public. Two parliamentary inquiries, by the Chamber of Deputies, and by the Senate, have concluded that there were no secret detention facilities in Romania. These inquiries were held in secret and their findings have not been made public.)

#### **Discrimination**

- To take appropriate and effective measures to protect Roma from intimidation, racial hatred and violence, and to eliminate discrimination against Roma and ensure their access to education, housing, healthcare and employment, without discrimination;
- To train the police, prosecution authorities and the judiciary to address complaints of racially motivated crimes;
- To ensure that officials refrain from making public statements which could be interpreted as encouraging discrimination against or targeting of individuals because of their ethnic origin, and to ensure that manifestations of racism and racial intolerance in the Romanian media are effectively addressed;
- To ensure thorough, independent and impartial investigations into all allegations of attacks and threats against individuals targeted because of their sexual orientation or gender identity and to bring to justice those responsible in accordance with international standards of fair trial;
- To ensure that authorities do not make public statements which could be interpreted as encouraging discrimination against or targeting of individuals because of their sexual orientation or gender identity;
- To actively promote awareness of the rights to freedom of expression, association and assembly without discrimination at all levels of government.

#### **Use of force by police**

- To ensure thorough and impartial investigations into allegations of ill-treatment by law enforcement officials, that those responsible are brought to justice in fair proceedings, that the victims of such ill-treatment receive reparation, and that the results of such investigations are made public;



- To return to Kosovo 11 Romanian police officers suspected of involvement in the deaths of two men and the serious injury of another during a demonstration on 10 February 2007 in Pristina (Kosovo), or to allow UNMIK officials access to them in Romania;
- To bring the legislation on the use of firearms by law enforcement officials in line with relevant international standards, including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
- To train police officers to respect the principles of necessity and proportionality in the use of force, consistent with international standards;

#### **Treatment in psychiatric hospitals**

- To ensure that adequate standards of living for in-patient in psychiatric institutions are established and maintained. Specific attention must be paid to patients' diet, hygiene and therapies, as well as adequate levels of medical and non-medical staffing with appropriate training;
- To ensure that all deaths of patients and residents in psychiatric units are properly recorded, that such information is collected by national authorities and reporting publicly, and that all deaths in psychiatric wards and hospitals are thoroughly, independently and impartially investigated and anyone responsible for misconduct brought to justice;

#### **Ratification and submission of reports to treaty monitoring bodies**

- To sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; the Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities and its Optional Protocol; and to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- To submit, without further delay, all outstanding reports to the Committee against Torture, the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, and the Committee on Economic, Social and Cultural Rights;

### **Recommendations to the government of Sri Lanka**

- To agree to the establishment of an international human rights monitoring presence without further delay, as recommended by the Special Rapporteur on extrajudicial, summary or arbitrary executions, who, following this visit to Sri Lanka in 2005 , recommended that “an effective international human rights monitoring mechanism be established”. In October 2007, the High Commissioner for Human Rights offered her Office's assistance with regard to information gathering and public reporting on human rights issues. In the increasing hostilities between the government and the LTTE, a very large number of civilians suffer killings, enforced disappearances, and displacement.
- To facilitate full and unimpeded access by international and national organizations, including by granting the necessary travel permits, to provide humanitarian assistance, including food and medical supplies, to civilians in need;

- To establish, as a priority, an effective witness protection scheme to enable prompt and impartial investigations into all reported killings, enforced disappearance, torture and other ill-treatment, and other serious human rights violations; to ensure that the perpetrators are brought to justice in proceedings that meet international standards of fairness; and to ensure reparation for victims and their relatives. The lack of effective witness protection was identified as one of the key reasons for the lack of progress of investigations into serious human rights violations, when the International Independent Group of Eminent Persons (IIGEP) announced its decision in March 2008 to terminate its mission. The IIGEP further cited the undue intervention of the Attorney-General in the work of the Commission of Inquiry, the slow pace of its hearings and the lack of full co-operation by state organs.
- To ensure the full implementation of the 17<sup>th</sup> Amendment to the Constitution which establishes the Constitutional Commission mandated to appoint the independent commissioners of a number of public commissions. In current situation where the Constitutional Commission is not functioning, appointments have been made unilaterally by the President to the Human Rights Commission and the Police Commission, of persons lacking the necessary independence. This has affected both the credibility and the effectiveness of these important commissions. The International Coordinating Committee of National Institutions recently downgraded the status of the Human Rights Commission due to concerns about its independence. This is a vicious circle which needs urgently to be broken. The government must ensure that the members of public commissions are appointed through an independent process. Therefore the Constitutional Commission must urgently be re-constituted and assume its important role in the appointment of members of public commissions. (Point 24 of the state report highlights the important role of the Constitution in protecting human rights. Yet as Point 3 in the OHCHR compilation report points out, the undermining of the 17<sup>th</sup> Amendment including the failure to appoint members of the Constitutional Commission has undermined the independence of key institutions including Sri Lanka's National Human Rights Commission and the Police Commission.)
- To urge the government to ensure the full implementation of the recommendations of the UN Working Group on enforced or involuntary disappearances and of the Presidential Commissions for Investigation into Enforced or Involuntary Disappearances, including the call for a central register of detainees that should include date of arrest, transfer and release information, and provide public access to such registers; and the call to repeal or revise the Emergency Regulations in line with international human rights standards;
- To facilitate without further delay the visit requested by UN Working Group on enforced or involuntary disappearances which has been outstanding since 2006.

## **Recommendations to the government of Switzerland<sup>1</sup>**

### **National human rights institution**

- To establish, without delay, a national human rights institution which complies with the Paris Principles,<sup>2</sup> in particular as regards the requirement of independence, mandate, composition and sphere of competence;

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<sup>1</sup> These recommendations are made on the basis of a submission for the review of Switzerland under the UPR by a coalition of Swiss NGOs.

- To ensure the coherent implementation of its international human rights obligations at all levels of the federal state, including by establishing national action plans for the effective implementation of human rights treaties to which it is a party;

### **Migration and asylum**

- To ensure that its asylum policy abides by its international human rights obligations, in particular the Convention relating to the Status of Refugees; the Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment; and the Convention on the Rights of the Child, including by:
  - Ensuring compliance with the requirements of article 3 of the Convention against Torture, including the proper test of proof, or the risk of torture, when determining whether to expel, return or extradite a person to another State;
  - Ensuring compliance with the requirements of article 37 of the Convention on the Rights of the Child, in particular the fact that detention measures should only be used as measures of last resort and for the shortest period of time;
  - Ensuring that asylum seekers are guaranteed their right to a fair hearing, to an effective remedy and to social and economic rights, notably decent living and housing conditions, during all procedures established by the revised law on asylum;
- To reduce the length of administrative detention in line with the principle of proportionality;

### **Gender-based discrimination**

- To take appropriate measures to ensure that migrant women, who are victims of sexual or domestic violence or trafficking, are not at risk of deportation when they report such acts of violence;
- To consider the root causes of discrimination, specifically against foreign women, including by removing legal and structural obstacles to equality of rights for foreign women.

## **Recommendations to the government of Ukraine**

### ***Non-refoulement***

- To abide by its obligations under international human rights and refugee law not to send individuals to countries where they face a risk of grave human rights abuses, including torture or other ill-treatment;
- To ensure that the principle of *non-refoulement* is fully understood and upheld by all law enforcement officials, including those involved in immigration and asylum-determination;

### **Torture and ill-treatment in police custody**

- To ensure that a lawyer is always present during police interrogations unless a detainee waives their right to a lawyer, and that all interrogations are recorded, preferably with video or audio equipment;

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<sup>2</sup> Principles relating to the status and functioning of national institutions for protection and promotion of human rights, adopted by the UN General Assembly in December 1993.

- To ensure that investigations are undertaken whenever a person alleges torture or other ill-treatment and whenever there are reasonable grounds to believe that an act of torture or other ill-treatment has occurred; to ensure that those responsible for torture or other ill-treatment are brought to justice; and to ensure that victims of torture are able to obtain redress and adequate reparation;
- To set up an independent body to monitor places of detention in accordance with its obligations under the Optional Protocol to the Convention against Torture;

#### **Conditions in detention and deaths in custody**

- To ensure that all people deprived of their liberty are held in conditions that meet international standards and the recommendations by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment regarding pre-trial detention;

#### **Domestic Violence**

- To amend the Law on the Prevention of Violence in the Family and promptly allocate secure, long-term funding to establish a sufficient number of shelters across the country in collaboration with NGOs working to protect women from violence;

#### **Racism**

- To ensure that law enforcement officials, prosecutors and judges involved in enforcing the law relating to racist crimes fully understand the nature of such crimes;
- To review legislation relating to racist crimes to bring it in line with international standards and ensure that statistics related to racist incidents are kept centrally and publicized.