



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

17TH SESSION OF THE UPR WORKING GROUP, 21 OCTOBER – 1 NOVEMBER 2013

INTRODUCTION

For the 17th session of Universal Periodic Review (UPR), Amnesty International has continued to focus on the paramount importance of implementation of the preceding review outcome, as highlighted in Human Rights Council resolution 5/1¹ and reiterated in decision 17/119.² In light of this, in its eight submissions for UPR17, Amnesty International has included a brief assessment of the state of implementation of selected recommendations by the states coming up for review, including Chad, China, Jordan, Malaysia, Mexico, Nigeria, Saudi Arabia and Senegal.

Amnesty has noted some progress in the implementation of recommendations that were accepted during the previous reviews, including some reform of the Re-education Through Labour system in China, amendments to the Criminal Code in Jordan to facilitate the prosecution of “honour” killings, constitutional reform in Mexico to comply with international human rights law, adoption of the Freedom of Information Act and strengthening of the Human Rights Commission in Nigeria, and the submission of a long overdue report to the Committee against Torture by Senegal.

However, on the whole, Amnesty International is compelled to conclude that much more needs to be done to secure the implementation of many of the recommendations that enjoyed the support of the states reviewed in 2009. Numerous recommendations to ratify international human rights standards have not been acted on by the states coming up for review. Chad has failed to bring to justice those responsible for human rights abuses and the fate of those disappeared has not been resolved. In China, hundreds of thousands have been evicted from their homes, further hundreds of thousands are held in illegal forms of detention, and the rights to freedom of expression, association, religion and movement continue to be repressed. In Jordan, discrimination and violence against women continue and domestic workers are forcibly confined and abused. Exploitation against migrants and asylum-seekers in Malaysia remains rife, and in Mexico impunity continues for abductions and killings of women, irregular migrants suffer abuses and human rights defenders face harassment. In Nigeria, detention without trial persists, as does harassment of journalists, and extrajudicial executions and torture continue with impunity.

Amnesty International regrets that some states failed to support important recommendations during their previous reviews. For example, Malaysia rejected recommendations to abolish the death penalty and to impose a

¹ Human Rights Council resolution 5/1, Institution-building of the United National Human Rights Council, Annex, paragraph 34.

² Human Rights Council decision 17/119, Follow-up to the Human Rights Council resolution 16/21 with regard to the universal periodic review, paragraph 2.

moratorium on executions, Saudi Arabia rejected recommendations to become a party to the Rome Statute, to abolish floggings, amputation and eye gouging, and to establish a moratorium on executions. Similarly, none of the recommendations on sexual orientation were accepted by Senegal, including to promote tolerance towards homosexuality and to cease discrimination based solely on sexual orientation or gender identity.

These short-comings are set out in more detail below including the specific recommendations that were made in the previous reviews.

Amnesty International strongly urges states involved in the 17th session of the UPR Working Group to take the implementation of recommendations accepted in previous reviews under more serious consideration, and to respond with improved clarity at every stage of the process.

CHAD

During its first Universal Periodic Review in May 2009, Chad accepted a number of important recommendations, including to ratify international human rights instruments,³ to implement the recommendations of the National Commission of Enquiry regarding the events in N'Djamena in February 2008,⁴ to ensure that those responsible for abuses, between 28 January and 8 February 2008, including the disappearance of Ibni Oumar Mahamat Saleh, be brought to justice,⁵ to improve detention conditions and ensure due process for detainees,⁶ to ensure freedom of the press and to repeal the new press law,⁷ and to enhance protections for women and girls living in conflict and refugee areas.⁸

However, Chad has failed to implement many of these recommendations. For example, Chad has not ratified a single one of the eight international human rights instruments that it agreed to ratify during its first review. Chad did sign some of them in late 2012, including the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; however, these are yet to be ratified.⁹

Chad has also failed to take the necessary steps to bring to justice those responsible for human rights abuses. No effective action has been taken by the authorities to resolve the fate of those who disappeared, or to bring to justice anyone suspected in connection with their disappearances. In particular, there has been no attempt to bring to justice those responsible for the disappearance of Ibni Oumar Mahamat Saleh, an opposition leader who disappeared after being arrested from his home by members of the security forces on 3 February 2008.

³ Human Rights Council, *Report of the Working Group on the Universal Periodic Review, Chad*, A/HRC/12/5, 5 October 2009. Chad agreed to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (recommendation 82.5, Mexico and Argentina); the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (recommendation 82.2, Czech Republic, and recommendation 82.3, United Kingdom and Argentina); the International Convention on the Protection of All Persons from Enforced Disappearance (recommendation 82.4, France, Argentina); and the Convention on the Prevention and Punishment of the Crime of Genocide (recommendation 82.1, Brazil). It also agreed to consider ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (recommendation 82.6, Argentina); the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (recommendation 82.6, Argentina); and the Convention on the Rights of Persons with Disabilities and its Optional Protocol (recommendation 82.6, Argentina).

⁴ A/HRC/12/5, recommendations 82.53 (France), 82.54 (Italy), and 82.55 (Ireland).

⁵ A/HRC/12/5, recommendations 82.54 (Italy), 82.55 (Ireland), and 82.56 (United States of America).

⁶ A/HRC/12/5, recommendations 82.24 (Czech Republic), 82.50 (Netherlands), 82.51 (Netherlands), and 82.52 (Ireland).

⁷ A/HRC/12/5, recommendations 82.59 (Canada), 82.60 (France), and 82.86 (United States of America).

⁸ A/HRC/12/5, recommendations 82.31 (Slovenia), 82.32 (Malaysia), and 82.69 (Slovenia).

⁹ On 26 September 2012 Chad signed 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 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

Furthermore, little has been done by the authorities to improve prison conditions or to ensure due process for detainees, to guarantee freedom of the press, or to enhance protection of the rights of women and girls.

CHINA

While the Chinese authorities have made progress on some of the recommendations made during its first UPR in 2009, they have failed to make significant progress on others, and have taken regressive steps with regard to some.

Some legal changes made since the last review would bring China closer into compliance with international law, thereby facilitating China's ratification of the International Covenant on Civil and Political Rights (ICCPR).¹⁰ The new Criminal Procedure Law (CPL), in effect since 1 January 2013, incorporates into national law the exclusion of illegal evidence in criminal proceedings, potentially improving conditions for ratification of the ICCPR by diminishing the use of evidence based on torture. The new CPL also takes steps towards the recognition of the presumption of innocence and offers some enhanced procedural protections for suspects and defendants in capital cases. However, other aspects of the new CPL would create obstacles to ratification of the ICCPR, such as Article 73 which makes enforced disappearances legally possible by removing the requirement for police to notify the family of the specific location in which an arrested or detained person is held, as well as allowing the police to detain individuals for up to six months in undisclosed locations that are not official detention centres. Ratification of the ICCPR would also be impeded by the continued widespread criminal prosecutions of individuals for exercising their rights to free expression, association and assembly, and to freedom of religion and belief; the widespread use of arbitrary and illegal forms of detention; the widespread use of torture and other cruel, inhuman or degrading treatment of detainees and its systematic use against certain targeted groups; and the prevalence of unfair trials and the widespread denial of the rights of detainees, including timely notification and access to legal counsel.¹¹

China fails to protect hundreds of thousands of individuals from being forcibly evicted from their homes.¹² China has made no visible progress in building its national human rights institutions¹³, and there is no evidence that it has “stepped up” cooperation with the Human Rights Council's Special Procedures, with 14 invitations from various Special Rapporteurs still outstanding.¹⁴

Welcome developments in the Re-education Through Labour (RTL) system include reform experiments in four cities and unconfirmed statements that the authorities intend to eventually cease the use of this form of detention. However, to date the authorities have not made public a comprehensive plan for either abolishing or significantly reforming the RTL system and there is no publicly available evidence to suggest there has been any

¹⁰ Report of the Working Group on the Universal Periodic Review, Addendum (A/HRC/11/25), Recommendation 1, “Create conditions for an early ratification of the International Covenant on Civil and Political Rights (ICCPR)” (Sweden); “In accordance with its imperatives dictated by its national realities, to proceed to legislative, judicial and administrative reform as well as create conditions permitting the ratification, as soon as possible, of the ICCPR” (Algeria); “Analyse the possibility of ratifying/consider ratifying/ratify ICCPR” (Argentina, Brazil, Austria).

¹¹ Ibid, Recommendation 1 (Sweden).

¹² Ibid, Recommendation 3, “Continue enhancing the quality of life of its people through the enjoyment of economic, social and cultural rights and pursuant to international standards” (Nicaragua).

¹³ Ibid, Recommendation 4, “Continue its national efforts for the promotion and protection of human rights, including in the area of strengthening its national human rights architecture” (Egypt).

¹⁴ Ibid, Recommendation 9, “Invite other Special Rapporteurs dealing with economic and social rights to visit the country” (Saudi Arabia); Recommendation 10, “Step up cooperation with the special procedures” (Latvia); “Engage with the Human Rights Council's special procedure mandate holders on addressing human rights challenges” (New Zealand).

significant change in how the RTL system is functioning.¹⁵ Hundreds of thousands continue to be held in illegal and arbitrary forms of detention and subjected to physical and mental torture and other ill-treatment, including forced labour.¹⁶

The continued severe repression of the rights to freedom of expression, association and assembly, religion, information, and movement of Tibetans, Uighurs, Mongolians and other ethnic minorities in China contradicts its support for the recommendation to ensure ethnic minorities “the full range of human rights”.¹⁷

JORDAN

At its 2009 UPR, Jordan accepted recommendations on a number of important issues, including freedom of expression,¹⁸ torture and other ill-treatment,¹⁹ discrimination and violence against women, including honour killings,²⁰ and foreign workers.²¹

In terms of implementation, there has been little progress as regards the numerous recommendations Jordan accepted on discrimination and violence against women. In a positive development in 2010, the government made temporary amendments to the Penal Code to prevent leniency in the sentencing of men convicted of killing female relatives in the name of family “honour”, including to Article 98, which allows reduced sentences for those who kill in a “fit of rage caused by an unlawful or dangerous act on the part of the victim”. However, women continue to be victims of “honour” killings in Jordan. Similarly, temporary amendments to the Personal Status Law have failed to adequately address discrimination against women. Amendments to the passport law removed a stipulation that a woman needs her husband’s consent before she can obtain a passport; however, other discriminatory legislation and practices remain.

With respect to foreign workers, one step forward was the 2011 amendment of a provision which had required domestic workers to obtain the permission of their employers before leaving the house. The new provision requires domestic workers to only inform their employers before leaving the house. However, thousands of domestic workers in Jordan continue to face forced confinement within the house in which they work, and multiple other abuses.

Despite Jordan’s acceptance of numerous recommendations concerning torture and other ill-treatment, Amnesty International is not aware of much progress in this area. On the contrary, the organization has ongoing concerns

¹⁵ Ibid, Recommendation 31, “Actively and prudently push forward reform of re-education through labour according to its national realities, so that everything goes according to its system” (Sudan).

¹⁶ Ibid, Recommendation 115.1, noted by China and which they indicated they pertain to measures already being implemented or which had already been implemented, “Guarantee that all detainees, regardless of their crimes, are held in facilities with decent standard and treatment” (Germany).

¹⁷ Ibid, Recommendation 37, “Continue its efforts to further ensure ethnic minorities the full range of human rights including cultural rights” (Japan); Recommendation 115.3: “Strengthen the protection of ethnic minorities’ religious, civil, socio-economic and political rights” (Australia); “In accordance with the Constitution, allow ethnic minorities to fully exercise their human rights, to preserve their cultural identity and to ensure their participation in decision-making; (and address these issues in the National Plan of Action)” (Austria).

¹⁸ Human Rights Council, Report of the Working Group on the Universal Periodic Review, Jordan, A/HRC/11/29, 29 May 2012, paragraph 92.26 (Canada). Jordan’s position on the recommendations taken under examination is noted in Report of the Human Rights Council on its eleventh session, A/HRC/11/37, 16 October 2009, paragraphs 654 – 686.

¹⁹ A/HRC/11/29, paragraphs 92.18 (Czech Republic, Germany, Sweden, France, Netherlands, United Kingdom); 92.19 (Albania); and 93.9 (Turkey).

²⁰ A/HRC/11/29, paragraphs 92.15 (Algeria, Lebanon); 92.16 (United Kingdom), 92.21 (Sweden, Brazil, Norway, Lithuania); 92.22 (Czech Republic); 92.25 (Bahrain); 92.28 (Philippines); 93.2 (Finland); 93.3 (Slovenia); 93.4 (Germany); 93.6 (Slovenia, Mexico); 93.7 (Canada); and 93.8 (Netherlands).

²¹ A/HRC/11/29, paragraph 92.27 (France).

regarding this issue. Similarly, concerns remain about freedom of expression, despite Jordan having made a commitment to promote a free and open press.

MALAYSIA

Amnesty International notes that many of the human rights concerns expressed during Malaysia's 2009 review are still relevant.

Malaysia has failed to accede to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture, and the Convention on the Elimination of All Forms of Racial Discrimination, despite accepting recommendations to do so.²² Malaysia rejected the recommendation to ratify the UN Convention Related to the Status of Refugees.²³

Malaysia also rejected recommendations to abolish the death penalty²⁴ and to impose a moratorium on executions,²⁵ as well as recommendations regarding freedoms of expression and assembly.²⁶ Malaysia rejected a recommendation to abrogate the Internal Security Act (ISA);²⁷ however, in 2012 it repealed the ISA and replaced it with the Security Offences (Special Measures) Act (SOSMA).²⁸

Malaysia accepted a number of recommendations to improve the situation of migrant workers;²⁹ however, exploitation and human rights abuses of migrants and asylum seekers remain rife.

MEXICO

In Mexico's first UPR in 2009, Mexico accepted recommendations related to harmonizing the domestic legal framework with international human rights norms,³⁰ combating discrimination and violence against women,³¹ ending enforced disappearances³² and torture,³³ protecting the rights of migrants³⁴ and

²² Human Rights Council. *Report of the Working Group on the Universal Periodic Review*. A/HRC/11/30 para. 104.1 (Algeria). Malaysia did not accept a similar recommendation to ratify core treaties such as the ICCPR, ICESCR, CAT, CERD (para 71, Republic of Korea; para 72, Finland; para 81 Canada; para 94, Lithuania; para 89, Mexico; para 67, Belgium; para 75, Ukraine). Malaysia's reply to the United Kingdom's recommendation to ratify the ICCPR and CAT (para 106.1) can be found at A/HRC/11/30/Add.1 para 1.

²³ Human Rights Council. *Report of the Working Group on the Universal Periodic Review*. A/HRC/11/30 para. 106.2 (United Kingdom). Malaysia's reply can be found at A/HRC/11/30/Add.1 para 2.

²⁴ Human Rights Council. *Report of the Working Group on the Universal Periodic Review*. A/HRC/11/30 paras. 21 (Israel), 83 (Djibouti).

²⁵ Human Rights Council. *Report of the Working Group on the Universal Periodic Review*. A/HRC/11/30 paras. 76 (Chile), 93 (Italy). Malaysia also did not accept France's recommendation to reduce the number of crimes for which the death penalty might be handed down, and provided a reply at A/HRC/11/30/Add.1 para 10.

²⁶ Human Rights Council. *Report of the Working Group on the Universal Periodic Review*. A/HRC/11/30/Add.1, para 15

²⁷ Human Rights Council. *Report of the Working Group on the Universal Periodic Review*. A/HRC/11/30 para. 21 (Israel)

²⁸ See section on arbitrary arrest and detention.

²⁹ Human Rights Council. *Report of the Working Group on the Universal Periodic Review*. A/HRC/11/30 para 104.50 (Bangladesh, Nepal). Malaysia did not support other recommendations in relation to migrant workers (para 106.2, United Kingdom; para 106.6, South Africa; para 106.17 Ukraine, para 106.18, Netherlands; para 106.19, Chile). Malaysia's reply to these recommendations can be found at A/HRC/11/30/Add.1 paras 2, 6, 17, 18, 19.

³⁰ Human Rights Council, *Report of the Working Group on the Universal Periodic Review, Mexico*, A/HRC/11/27, 29 May 2009, paragraphs 93.3 (Morocco); 94.4 (Spain); 93.5 (Azerbaijan); 93.6 (Bolivia, Guatemala, Spain, Turkey, Uruguay); and 93.7 (Canada, Switzerland).

³¹ A/HRC/11/27, paragraphs 93.8 (Brazil, Chile); 93.11 (United Kingdom); 93.12 (Pakistan); 93.13 (New Zealand); 93.14 (Japan, Turkey); 93.15 (Netherlands, Chile, Ireland); 93.16 (Indonesia, Sweden, Algeria); 93.17 (Azerbaijan);

Indigenous Peoples,³⁵ addressing attacks on human rights defenders³⁶ and journalists,³⁷ undertaking judicial reforms,³⁸ and strengthening the enjoyment of economic and social rights, including by reducing poverty.

The eight recommendations taken under examination called for reform to the definition of organized crime, abolition of “*Arraigo*” pre-charge detention, exclusion from military justice system of allegations of human rights violations committed by members of the armed forces, and renewed measures to combat impunity for past human rights violations by re-establishing the Special Prosecutor’s Office.

In December 2012, ex-president Calderon left office and the new president, Enrique Peña Nieto, was sworn in. Whereas the previous government was characterised by a positive human rights discourse, this was not backed-up with implementation measures. In fact, the determination of the previous government to deny the seriously worsening human rights situation in the country - in no small part due to its public security strategy of militarized combat of organized crime - strengthened impunity and allowed human rights violations, such as torture and ill-treatment, to become widespread and systematic. The new government of Enrique Peña Nieto has made some welcome commitments to strengthen protection of human rights. However, so far these broad commitments have also not been followed up with clear implementation and evaluation measures. Hence, there has been little progress with respect to many key recommendations accepted by Mexico at its first review and the human rights situation continues to be grave.

Harmonization of national law with international human rights standards

In July 2011, crucial constitutional reforms established the obligation to comply with international human rights law. The reform requires that on occasions where there is contradiction between the Constitution and international human rights treaties, the norm most favorable to the protection of the person (pro-persona principle) shall be applied. This formulation of the reform was the result of many years of campaigning by national and international human rights organizations to make the Constitution consistent with international human rights commitments set out in the treaties to which Mexico is a party and thus ensure that everyone in Mexico can potentially seek protection of treaty rights.

This Constitutional reform has enabled the National Supreme Court to make a number of important rulings, including ones limiting the application of military jurisdiction. However, the process of harmonizing domestic legislation with this constitutional advance has yet to begin. This is essential in order to have direct impact on the protection, respect and fulfillment of rights of all. The precariousness of

93.18 (Panama, Finland); 93.19 (Ukraine); 93.20 (Italy); 93.21 Bangladesh); 93.22 (Austria); 93.23 (Belgium); and 93.48 (Bolivia, Sweden).

³² A/HRC/11/27, paragraphs 93.17 (Azerbaijan); 93.24 (Colombia); 93.25 (Uruguay); and 93.40 (Italy).

³³ A/HRC/11/27, paragraphs 93.26 (Algeria, Portugal); 93.27 (Japan, Uzbekistan, France); 93.28 (Uzbekistan, France, Japan); 93.40 (Italy); and 93.46 (Cuba, Bangladesh, Azerbaijan, Denmark).

³⁴ A/HRC/11/27, paragraphs 93.79 (Pakistan); 93.80 (Guatemala); and 93.81 (Uzbekistan, Guatemala).

³⁵ A/HRC/11/27, paragraphs 93.8 (Brazil, Chile); 93.11 (United Kingdom); 93.48 (Bolivia, Sweden); 93.49 (Finland); 93.64 (Japan); 93.67 (Algeria, Azerbaijan, Philippines, Honduras); 93.68 (Azerbaijan); 93.69 (Holy See, Honduras); 93.70 (Saudi Arabia, Vietnam); 93.73 (Algeria); 93.75 (Azerbaijan, Panama, Bangladesh); 93.76 (Guatemala, Pakistan); 93.77 (Argentina, Bolivia, Denmark); and 93.78 (New Zealand).

³⁶ A/HRC/11/27, paragraphs 93.23 (Belgium); 93.52 (United Kingdom); 93.58 (Azerbaijan, Germany, Denmark); 93.59 (Norway); and 93.60 (Germany, Norway).

³⁷ A/HRC/11/27, paragraphs 93.48 (Sweden); 93.53 (Norway); 93.54 (Germany); 93.56 (United Kingdom, Bangladesh, Denmark, Peru); 93.57 (Netherlands); 93.58 (Azerbaijan, Germany, Denmark); 93.59 (Norway); and 93.60 (Germany, Norway).

³⁸ A/HRC/11/27, paragraphs 93.35 (Turkey, Austria); 93.37 (New Zealand); 93.42 (Chile); and 93.50 (Honduras).

the reforms was illustrated recently when legislators from the governing party proposed a regressive reform to remove the pro-persona principle to reinstate the supremacy of the Constitution over international human rights law. If approved, this measure would once again close the door to direct application of international human rights standards.

Violence against women

Although Mexico accepted a series of recommendations to combat discrimination and violence against women, these commitments have not translated into effective measures to reduce violence and impunity. In particular, the “General Law on Women’s Access to a Life Free from Violence” (*Ley General de Acceso de las Mujeres a una Vida Libre de Violencia*) has remained toothless. Relatives of victims in Chihuahua, and in other states such as Nuevo Leon, Mexico state and Oaxaca have not been successful in pressing for attacks, abductions and killings of women to be effectively prevented or investigated. In Ciudad Juarez, human rights activists and relatives of victims continue to demand full compliance with the Inter-American Court of Human Rights judgement on the Cotton Field case.³⁹

Migrants

Similarly, Mexico’s acceptance of recommendations to strengthen the protection of irregular migrants has not led to an improvement in their situation. The extortion, abduction, rape and killing of irregular migrants continue on the transit routes to the US border. Few criminals or officials responsible are ever prosecuted. Between the federal, state and municipal authorities there continues to be a lack of leadership, coordination and accountability for protecting irregular migrants. A new law on migration adopted in 2011 formally improves the recognition of migrants’ rights.⁴⁰ However, a new regulatory code,⁴¹ published in September 2012, raises concern as it grants wide discretionary powers to the Federal Police and officials of the National Migration Institute,⁴² which in the past have led to abuses. Migrants’ rights defenders face constant threats and intimidation for their work.

Human rights defenders and journalists

Threats, harassment and killings of human rights defenders and journalists continue and impunity for the perpetrators remains the norm. In 2012, a law established a protection mechanism for human rights defenders and journalists. The new government has agreed to support the mechanism; however, resources and high-level political support are essential to ensure its effectiveness. The mechanism suffers from a shortage of trained and qualified staff and the commitment of state governments to comply with protection measures remains unclear. The investigation of attacks and threats against human rights defenders and journalists remains gravely deficient, with few perpetrators ever held to account. The Special Federal Prosecutor’s Office for crimes against journalists remains without sufficient powers to conduct full investigations and prosecutions.

Indigenous Peoples

Indigenous communities are some of the most marginalized in Mexico, with limited access to justice, housing, education, healthcare, water and employment. They are also often denied their right to free, prior and informed consent on development and resources projects affecting their traditional lands. The government has promised to protect Indigenous rights, but has not provided any details on how it will achieve this.

³⁹ The 2009 judgement by the Inter-American Court of Human Rights on the killing of three young women in Ciudad Juarez in 2001 found the Mexican state responsible for a series of treaty violations, including discrimination, failure to protect the lives of the victims, failure of due diligence to effectively investigate and failure to hold to account officials responsible.

⁴⁰ Migration law (ley de migracion), May 2011.

⁴¹ Regulatory code of the Migration law (http://www.dof.gob.mx/nota_detalle.php?codigo=5270615&fecha=28/09/2012), September 2012.

⁴² Instituto Nacional de Migración, agency responsible for applying migration law.

NIGERIA

Following Nigeria's first UPR in 2009 several recommendations were accepted by Nigeria including the following:

- *To address the dysfunction of the judicial system, to introduce reform of the justice system including penitentiary centres and national police, and to improve the criminal justice system:*⁴³ The process of implementation of these recommendations has been slow. The recommendations by the Committee on the Implementation of the Justice Sector Reforms, set up in August 2011, and the recommendations of the Presidential Committee on Police Reform, submitted to the President in August 2012, are yet to be implemented.⁴⁴ Bills to amend the Police and Prisons Act are still pending before the federal legislature. The court system continues to be plagued by delays in proceedings with many cases taking several years to complete, and the appeals process is long, bureaucratic and expensive.
- *To tackle the backlog of prisoners detained without trial or beyond the end of their sentence, including by trying them without delay or freeing them:*⁴⁵ The backlog of prisoners detained without trial persists. Large numbers of inmates in Nigerian prisons have not been convicted of any crime and are awaiting trial. As at 31 October 2012, figures from the prisons service show that of the 54,156 prison population 38,352 are Awaiting Trial Persons.
- *To ensure that freedom of expression is respected, including the rights of journalists to report, comment on and criticize government policy without suffering harassment:*⁴⁶ Section 39 of the Nigerian Constitution guarantees the right to freedom of expression and in May 2011 the President signed into law the Freedom of Information Act; however, journalists continue to suffer harassment at the hands of the police, the Joint Task Force (JTF)⁴⁷ and the State Security Services (SSS). As the government attempts to counter Islamist armed groups in the north of the country harassment and arrests of journalists who report negatively on the operations by the military has increased. In one such case, Musa Muhammad Awwal, a journalist with *Al-Mizan*, who published allegations of unlawful detention by the military was harassed on several occasions and detained by the security forces in December 2012 and February 2013. Amnesty International is concerned that no concrete steps have been taken by the government to protect freedom of expression of journalists.
- *To end extrajudicial executions, including by adopting comprehensive legislation with regard to extrajudicial executions and torture by the police and measures assuring its application:*⁴⁸ The Constitution guarantees the right to freedom from torture; however, existing Criminal Code provisions on assault and murder are rarely applied to the police due to overbroad defences for police use of force and/or unwillingness by the state to prosecute. In September 2009, the President inaugurated a National Committee on Torture, designated as Nigeria's national preventive mechanism (NPM) under the Optional Protocol to the Convention against Torture. The Committee is yet to be given an adequate budget to carry out its mandate. Police continue to carry out extrajudicial executions and torture with impunity.
- *To expedite amendments to the Human Rights Commission Act, including to ensure its independence*

⁴³ Report of the Working Group on the Universal Periodic Review, Nigeria, A/HRC/11/26, paragraph 103.21 (recommendations made by Belgium, Mexico and Slovakia).

⁴⁴ The recommendations of past Presidential Committees and working groups, including the National Working Group on Prison Reform and Decongestion, Inter-Ministerial Summit on the State of Remand Inmates in Nigeria's Prisons, Presidential Committee on Prison Reform and Rehabilitation, Presidential Commission on the Reform of the Administration of Justice, and the Committee on the Harmonization of Reports of Presidential Committees Working on Justice Sector Reform, are yet to be implemented.

⁴⁵ A/HRC/11/26, paragraph 103.25 (recommendation made by the United Kingdom).

⁴⁶ A/HRC/11/26, paragraph 103.26 (recommendations made by France and Canada).

⁴⁷ Joint Task Force (JTF) is a combined forces group of the police, military and State Security Services.

⁴⁸ A/HRC/11/26, paragraph 103.14 (recommendations made by Benin and Germany).

and to enable it to regain “A” rating in compliance with the Paris Principles.⁴⁹ Nigeria has implemented these recommendations by amending the Human Rights Commission Act in 2010 with provisions granting the National Human Rights Commission (NHRC) financial autonomy and independence. The Commission has now regained “A” rating in compliance with the Paris Principles and has been granted accreditation to the International Coordination Committee of National Human Rights Institutions. However, despite this amendment the funding of the NHRC continues to be insufficient and there are several capacity gaps in respect of its work force and institutions. The Governing Council, the highest policy body of the NHRC, was sworn in by the government in December 2012, one year after the Senate had confirmed the nomination of its members. The delay had a negative impact on the effectiveness of NHRC in 2012.

SAUDI ARABIA

During its first UPR in 2009, Saudi Arabia accepted 50 recommendations,⁵⁰ rejected 18, and gave no clear position on a further two.⁵¹

Amnesty International regrets that Saudi Arabia rejected recommendations to become a party to the Rome Statute of the International Criminal Court;⁵² to abolish corporal punishment and the application of torture and other cruel, inhuman or degrading treatment, such as flogging, amputations and eye-gouging in accordance with international human rights treaties to which it is a party;⁵³ to withdraw its two reservations to CEDAW;⁵⁴ to establish a moratorium on the death penalty or to restrict its scope in line with international minimum standards;⁵⁵ and to end the practice of incarcerating, mistreating, and applying travel bans against individuals on the basis of their political or religious beliefs.⁵⁶

Amnesty International further regrets that Saudi Arabia appears to have implemented none of the central recommendations that it accepted, including to consider becoming a party to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR), and to modify its domestic legislation accordingly;⁵⁷ to consider ratification of the International Convention for the Protection of All Persons From Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, conventions related to refugees and statelessness and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).⁵⁸ It has also failed to act on recommendations to implement the 2008 recommendations by the CEDAW Committee, in particular to guarantee women and girls their rights to education, employment, freedom of movement, marriage with their free and full consent, and health; to protection from and redress for family violence, to abolish the system of male guardianship over women and to enact comprehensive and effective legislation to abolish all practices that discriminate against women, including the prohibition on women driving

⁴⁹ A/HRC/11/26, paragraph 4 (recommendations by Finland, New Zealand and Portugal).

⁵⁰ Report of the Working Group on the Universal Periodic Review, Addendum (A/HRC/11/23Add.1).

⁵¹ Ibid, Recommendations 33 (made by Italy, Finland, Belgium) and 37 (South Africa).

⁵² Ibid, Recommendation 4 (made by France and Mexico).

⁵³ Including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the Convention on the Rights of the Child (CRC). Report of the Working Group on the Universal Periodic Review (A/HRC/11/23), Recommendations 27c (Israel), 44c (Canada), 65a (Switzerland), and 74c (New Zealand).

⁵⁴ Report of the Working Group on the Universal Periodic Review (A/HRC/11/23), Recommendations 65d (Switzerland) and 75b (Republic of Korea).

⁵⁵ Ibid, Recommendations 46a (Italy), 48d (Mexico), 65b (Switzerland), and 71b (Sweden).

⁵⁶ Ibid, Recommendation 74b (New Zealand).

⁵⁷ Ibid, Recommendations 44b (Canada) and 47a (Chile).

⁵⁸ Ibid, Recommendations 48b (Mexico).

and restrictions on access by women to public places and commercial facilities.⁵⁹ The only reforms in this area that Amnesty International is aware of are the removal of a limited number of restrictions on women's access to particular jobs and roles.

SENEGAL

Torture, ill-treatment and death in detention

During the first review in 2008, Senegal supported a recommendation to finalize and submit reports to treaty bodies, including the UN Committee against Torture.⁶⁰ In 2011, Senegal finally submitted its third, fourth, fifth and sixth periodic reports combined in a single document 15 years after they presented the second periodic report. Amnesty International is concerned that during the 2008 review, Senegal did not accept a recommendation to extend invitations to the Special Rapporteurs on torture and on the independence of judges and lawyers.⁶¹

Freedom of expression and assembly under attack

Amnesty International is also concerned that none of the recommendations concerning freedom of opinion and expression or freedom of association and peaceful assembly were accepted during the first review.⁶² Senegal gave only a general response to the recommendation reminding the authorities of their commitments under the International Covenant on Civil and Political Rights, which Senegal ratified in 1978, and did not commit to ensuring effective freedom of expression and assembly.⁶³

Arrest and persecution based on actual or perceived engagement in consensual same-sex sexual acts

Similarly, no recommendations concerning sexual orientation were accepted by Senegal, including to adopt measures to promote tolerance towards homosexuality and to review national legislation that criminalizes sexual relations between consenting adults of the same sex resulting in the discrimination, prosecution and punishment of people solely for their sexual orientation or gender identity.⁶⁴

⁵⁹ Ibid, Recommendations 44d and 44e (Canada), 49a and 49b (Germany), 54a (Finland), and 74e (New Zealand).

⁶⁰ Human Rights Council, *Report of the Working Group on the Universal Periodic Review of Senegal*, A/HRC/11/24, 3 March 2009, recommendation 97.5 (Mexico).

⁶¹ Idem, recommendation 98.2 (Mexico).

⁶² Idem, recommendation 98.7 (Switzerland, Sweden, France, Canada), 98.8 (Ireland, United Kingdom, the Netherlands, Belgium, Holy See), 98.9 (France, Slovenia).

⁶³ Idem, recommendation 98.7 (Canada), 98.9 (France).

⁶⁴ Idem, recommendation 98.6 (United Kingdom, Belgium, Canada, the Netherlands, Slovenia, Czech Republic, Ireland).