



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

16TH SESSION OF THE UPR WORKING GROUP, 22 APRIL - 3 MAY 2013

## INTRODUCTION

In its submissions for the UPR, Amnesty International endeavours to assess the level of implementation of some of the recommendations, made by other states in the previous UPR cycle, that the organization considers to be of the greatest importance in terms of improving the human rights situation in the countries reviewed. The information in this document is drawn from the submissions made by Amnesty International for the 16<sup>th</sup> session of the UPR Working Group on the following countries: Azerbaijan, Cameroon, Canada, Colombia, Cuba, Germany, Russian Federation, Turkmenistan, and Uzbekistan.

The UPR modalities stipulate that, from the second cycle onwards, the reviews should focus, *inter alia*, on the implementation of the preceding review outcome.<sup>1</sup> Amnesty International considers that this aspect of the UPR is crucial if the UPR is to fulfil its key objective of improving the human rights situation on the ground. Amnesty International urges all states participating in the UPR to raise the issue of implementation of previous recommendations during the interactive debate in the UPR Working Group, including exploring obstacles to implementation and options for cooperation and sharing of good practice in the respective area.

## AZERBAIJAN

In the course of its first review in 2009, the government of Azerbaijan accepted – but also rejected – a large number of recommendations regarding freedom of assembly and association, freedom of expression and opinion, and ill-treatment in detention centres. Regardless of the government's position on these recommendations, Amnesty International has seen little evidence of progress on the issues raised in the last UPR; rather the situation has deteriorated in many cases.

### *Freedom of assembly*

Despite accepting recommendations to strengthen the right to freedom of assembly, Amnesty

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<sup>1</sup> Human Rights Council resolution 5/1, Institution-building of the United Nations Human Rights Council, Annex, paragraph 34

International is concerned by the tightened restrictions regarding this fundamental human right.<sup>2</sup> Recent amendments passed into Administrative and Criminal law have drastically increased the fines imposed on those participating in peaceful but unsanctioned protests. The increased punishment, coupled with the authorities' continuing blanket ban on protests in Baku city centre has effectively criminalized peaceful anti-government protest. Threats and intimidation against human rights defenders have been used together with legislative and administrative measures to shut down and deny registration to civil society groups working on democracy and human rights.

### ***Freedom of expression***

While some recommendations regarding respect for freedom of expression were accepted,<sup>3</sup> Amnesty International regrets that many of the recommendations regarding this fundamental right were rejected by Azerbaijan, including the recommendation to release people imprisoned for libel.<sup>4</sup> Amnesty International is alarmed by the increase in the targeting of journalists and imprisonment of individuals on the basis of their political opinion since the last review. Following public protests in March and April 2011, 17 persons were imprisoned on trumped-up charges in relation to the protests. Despite a presidential amnesty in June 2012 leading to the release of most of those arrested in connection with the 2011 protests, the clampdown and arrests of those critical of the government have continued unabated in 2012. Many people remain in detention on questionable charges in what appears to be retaliation for their activities and voicing of criticism.

Journalists have been beaten, ill-treated and abducted, while a range of independent media outlets has been curbed through laws banning foreign broadcasters from national airwaves. Additionally, the government has begun cracking down on dissent on the internet and in social media forums. Bloggers and youth activists have been harassed and imprisoned on trumped-up charges.

### ***Torture and other ill-treatment in detention facilities***

Amnesty International regrets that the government either rejected or took no position on all the recommendations regarding detention.<sup>5</sup> Amnesty International remains deeply concerned about the use of torture and other ill-treatment in detention facilities in Azerbaijan. Several activists detained at and after the protests in March and April 2011, as well as following the dispersal of protests in March, April and October 2012, have complained of ill-treatment at the time of their arrest and while in police custody. To date, none of these allegations have been investigated in an effective manner.

## **CAMEROON**

During its first Universal Period Review in 2009, recommendations were made to Cameroon regarding freedom of expression, journalists and human rights defenders, violence against women and female

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<sup>2</sup> Human Rights Council. *Report of the Working Group on the UPR of Azerbaijan*. A/HRC/11/20. 29 May 2009, recommendation 96.18 (Netherlands, Sweden, Canada) (A/HRC/11/20).

<sup>3</sup> A/HRC/11/20, recommendation 96.15 (Poland, Bangladesh, Ireland, Norway).

<sup>4</sup> A/HRC/11/20, recommendation 96.14 (Ireland).

<sup>5</sup> Human Rights Council. *Report of the Working Group on the UPR of Azerbaijan- Addendum*. A/HRC/11/20/Add.1, paragraphs 16, 20 and 21 (A/HRC/11/20/Add.1).

genital mutilation (FGM), and LGBTI rights. Amnesty International is concerned to note that progress on these issues has been negligible.

### ***Freedom of expression***

Despite supporting recommendations to adopt measures to ensure protections in line with international standards to protect the right to freedom of expression of journalists and human rights defenders (HRDs),<sup>6</sup> Amnesty International is concerned that the authorities continue to show high levels of intolerance towards journalists and HRDs who are critical of the government and its policies. Journalists are often arrested and subjected to lengthy periods of detention without trial and ill-treatment while in detention.

### ***Female genital mutilation***

Cameroon also supported several recommendations to adopt legislation prohibiting and combating FGM.<sup>7</sup> In 2010, senior officials at the Ministry of Justice told Amnesty International that they were in the process of revising the Penal Code and that FGM was to be abolished and made a criminal offence in a new Penal Code. However, as of October 2012, the Penal Code had not been revised. The authorities appear to minimize the gravity of the harm caused by FGM. The Minister of Justice also told Amnesty International that in Cameroon FGM amounts to slicing off a section of the clitoris and is not as dramatic as in West Africa.

### ***Violence against women and girls***

Cameroon further accepted recommendations to make efforts to eliminate all forms of violence against women and girls.<sup>8</sup> Progress on this issue has been minimal. Amnesty International is seriously concerned about inadequate domestic legislation to prevent and punish rape. While the Penal Code penalizes acts of rape of women, Sections 73 and 297 exonerate the perpetrators if they subsequently marry their victims as long as the victim has attained puberty and has freely consented to the marriage.

### ***Lesbian, gay, bisexual, transgender, and intersex rights***

Amnesty International regrets that Cameroon rejected all recommendations intended to ensure that the government adheres to its international human rights obligations towards lesbian, gay, bisexual, transgender, and intersex (LGBTI) people.<sup>9</sup> The Penal Code criminalizes same-sex sexual acts and the offence is punishable by up to five years' imprisonment and a fine of up to US\$ 350. This breaches Cameroon's international human rights obligations with regard to the rights to non-discrimination, privacy, liberty, and security of person.

## **CANADA**

There has been no public reporting by the Canadian government with respect to implementing the outcome of its 2009 Universal Periodic Review and there is no publicly available information indicating the status of

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<sup>6</sup> Human Rights Council. *Report of the Working Group on the Universal Periodic Review of Cameroon*, A/HRC/11/21, Para. 76.24 (Luxembourg), 76.25 (Israel), 76.26 (Chile)

<sup>7</sup> A/HRC/11/21, Paras. 76.15 (Germany, Slovenia, Brazil, Italy, Botswana),

<sup>8</sup> A/HRC/11/21, Para. 76.17 (Mexico, Malaysia, Pakistan)

<sup>9</sup> A/HRC/11/21, Paras. 78; 22b (Canada), 28c (Luxembourg), 20 (Argentina), 25c (France), 29d (Czech Republic), 32c (Brazil), 46b (Mexico)

the recommendations that were accepted and the commitments made by Canada. At the time of this submission, there have been no consultations with Indigenous Peoples and no meaningful dialogue with civil society groups to discuss the 2009 UPR or prepare for the 2013 UPR.

The system in place in Canada for coordinating and ensuring the implementation of international human rights obligations, including UPR outcomes, Concluding Observations and views of treaty bodies and recommendations made by the Special Procedures, is inadequate.<sup>10</sup> Numerous UN treaty bodies have called for an approach that is publicly accessible, broadly consultative, politically accountable and well-coordinated among various levels of government. Amnesty International has endorsed a widely supported submission calling for legislation to address this longstanding shortcoming.<sup>11</sup>

## COLOMBIA

During its previous review in 2008, Colombia supported a number of recommendations on human rights defenders, violence against women, the rule of law and justice, including impunity, and on international standards and UN mechanisms.<sup>12</sup>

### *Human rights defenders*

Colombia supported 21 recommendations on the issue of human rights defenders, including to ensure their effective protection, to denounce attacks against them and to recognize the legitimacy of their work.<sup>13</sup> Amnesty International notes that President Juan Manuel Santos has adopted a less hostile stance towards human rights issues in general, and human rights defenders in particular, than his predecessor, and that the government has engaged in constructive dialogue with human rights defenders and made public statements condemning human rights abuses against them. However, high-ranking government and state officials continue to make statements that threaten to undermine the legitimacy of human rights work.

Amnesty International also notes the establishment of a new National Protection Programme (NPP) to replace the plethora of protection programmes run by the Interior Ministry for, among others, human rights defenders, and the decision to disband the discredited civilian intelligence service, the Administrative Department of Security (*Departamento Administrativo de Seguridad, DAS*).<sup>14</sup> However, many NPP staff, some of whom have been engaged in protective duties, are believed to be former members of the DAS. Amnesty International is concerned that no effective controls are in place to ensure that private security companies, some of which are providing bodyguards for human rights defenders, as

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<sup>10</sup> See for instance: *Canada: Amnesty International Submission to the UN Universal Periodic Review: Fourth session of the UPR Working Group of the Human Rights Council*, February 2009 (AMR 20/004/2008).

<sup>11</sup> Empty words and Double Standards: Canada's Failure to Respect and Uphold International Human Rights, Joint Submission to the United Nations Human Rights Council in relation to the May 2013 Universal Periodic Review of Canada, October 9, 2012.

<sup>12</sup> Human Rights Council. *Report of the Working Group on the Universal Periodic Review of Colombia*, A/HRC/10/82, 9 January 2009.

<sup>13</sup> A/HRC/10/82, recommendations 87.2 (Hungary, Mexico), 87.4 (Romania), 87.12 (Sweden), 87.41 and 87.43-54 (Czech Republic, Norway, Switzerland, Uruguay, France, UK, Ireland, Australia, Spain, Albania, Germany, Canada, Azerbaijan, Hungary).

<sup>14</sup> The DAS had been discredited following a "dirty tricks" scandal, which mainly took place during the government of President Uribe, involving the illegal surveillance and wiretapping of human rights defenders, journalists and judges, as well as death threats and killings carried out in collusion with paramilitary groups.

well as the NPP, do not employ former paramilitaries, guerrillas or members of the security forces implicated in human rights violations.<sup>15</sup>

Amnesty International continues to receive reports of human rights defenders being threatened and killed, especially those working on land restitution.<sup>16</sup> Criminal investigations into threats and attacks against human rights defenders have made little progress, and most perpetrators have not been identified, let alone brought to justice.<sup>17</sup>

### ***Violence against women***

Colombia accepted key recommendations to address gender-based violence and Amnesty International notes that the authorities are now demonstrating a greater degree of commitment to combat such violence as well as the impunity that has marked such cases.<sup>18</sup> Amnesty International welcomes the introduction in recent years of several new laws, decrees and resolutions to address the problem.<sup>19</sup> However, most of these have not been implemented effectively, and have therefore had little discernible impact on survivors' access to justice. A bill currently before Congress "to guarantee access to justice for victims of sexual violence, especially sexual violence in the context of the armed conflict",<sup>20</sup> could, if approved and implemented effectively, make a real difference in efforts to combat sexual violence.<sup>21</sup> The Constitutional Court has affirmed that sexual violence is widespread as well as systematic; however, the state's implementation of Judicial Ruling 092 of 2008 (Auto 092) on combating conflict-related sexual violence and the overwhelming impunity which plagues such crimes, has been poor.<sup>22</sup>

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<sup>15</sup> A/HRC/10/82, recommendation 87.51 (Spain).

<sup>16</sup> A/HRC/10/82, recommendation 87.52 (Albania, Germany, Canada and Azerbaijan).

<sup>17</sup> A/HRC/10/82, recommendation 87.50 (Norway and Australia).

<sup>18</sup> A/HRC/10/82, recommendation 87.15 (Canada and Ireland).

<sup>19</sup> For example, Ley No.1542 de 2012 "por la cual se reforma el Artículo 74 de la Ley 906 de 2004, código de procedimiento penal". On 5 January 2012, the Office of the Attorney General also published its equality and non-discrimination policy. This detailed how it would implement a differentiated approach, including on gender, in the investigation of crimes. According to the Office of the Attorney General, the aim of this policy, adopted on 12 March 2012 (Resolution No. 00450), is to improve access to justice for groups and communities at risk, such as women; lesbian, gay, bisexual, transgender and intersex people; Indigenous Peoples; children, and Afro-descendent communities. On 12 September 2012, President Santos also presented the government's National Public Policy for the Gender Equity of Women, which he claimed would help "guarantee the comprehensive rights of women", including those affected by the conflict.

<sup>20</sup> Ley 037 de 2012 "Por el cual se modifican algunos artículos de las leyes 599 de 2000, 906 de 2004 y se adoptan medidas para garantizar el acceso a la justicia de las víctimas de violencia sexual, en especial la violencia sexual con ocasión al conflicto armado, y se dictan otras disposiciones".

<sup>21</sup> See Amnesty International, *Colombia: Hidden from Justice, Impunity for Conflict-Related sexual Violence, a Follow-up Report* (AMR 23/031/2012), *This is What we Demand. Justice! Impunity for sexual violence against women in Colombia's armed conflict* (AMR 23/018/2011) and *Colombia: "Scarred Bodies, Hidden Crimes": sexual violence against women in the armed conflict* (AMR 23/040/2004).

<sup>22</sup> Constitutional Court Judicial Decision (Auto) 092 of 2008 called on the state to implement 13 programmes to prevent sexual violence and protect victims and called on the Office of the Attorney General to make progress in investigating 183 cases of sexual violence, some of which were included in Amnesty International's 2004 report. *Auto 092* was a follow-up report to a 2004 Constitutional Court sentence (T-025), which ruled that the lack of an integrated state policy towards displaced communities was unconstitutional. Since then, the Court has issued a series of judicial decisions on specific displaced communities, such as Indigenous Peoples and people with disabilities.

### ***Rule of law, justice and impunity for human rights abuses***

Colombia accepted a number of recommendations to ensure appropriate investigation of human rights abuses and to combat impunity for such crimes.<sup>23</sup> Amnesty International welcomes progress in recent years to bring to justice a few of those responsible for human rights abuses; however, this remains the exception rather the rule. Those participating in human rights criminal investigations, such as witnesses and lawyers, continue to be threatened and killed.

Colombia also accepted a recommendation to ensure that the military justice system does not have jurisdiction in human rights cases involving members of the security forces, yet the military justice system continues to refuse to hand over many such cases to the civilian prosecuting authorities.<sup>24</sup>

### ***International human rights standards and mechanisms***

Colombia ratified the International Convention for the Protection of All Persons from Enforced Disappearance in July 2012, in line with recommendations it supported at its 2008 review.<sup>25</sup> However, it has not recognized the competence of the Committee to receive and consider communications from or on behalf of victims or from other states parties, leaving survivors and victims' families without an important recourse to justice.<sup>26</sup> Colombian human rights NGOs estimate there have been more than 30,000 forced disappearances in the course of the conflict, although the real figure could be higher.

## **CUBA**

At the time of its first Universal Periodic Review in February 2009, Cuba accepted 60 recommendations of the 89 commendations made to it by other States.<sup>27</sup>

Most of the recommendations accepted by Cuba concerned economic and social rights policies that had already been implemented.<sup>28</sup> However, Cuba also accepted several recommendations on issues that Amnesty International believes are key to improving the human rights situation in the country, including as regards the promotion and protection of human rights and freedoms,<sup>29</sup> the death penalty,<sup>30</sup> cooperation with UN

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<sup>23</sup> A/HRC/10/82, recommendation 87.24 (Chile), 87.24 (Switzerland, Chile and Turkey)

<sup>24</sup> A/HRC/10/82, recommendation 87.28 (Portugal).

<sup>25</sup> A/HRC/10/82, recommendation 87.1 (Argentina, Cuba and Mexico).

<sup>26</sup> See Amnesty International public statement, *Colombia: ratification of the enforced disappearance convention, a positive yet incomplete step forward*, 17 July 2012, AMR 23/027/2012.

<sup>27</sup> Human Rights Council, *Report of the Human Rights Council on its eleventh session*, A/HRC/11/37, 16 October 2009, paragraph 410 (A/HRC/11/37).

<sup>28</sup> Several recommendations called on Cuba to extend its solidarity programmes or share its experience on promoting the right to health and education. Although Amnesty International acknowledges Cuba's international cooperation programmes in promoting access to health and education in developing countries, the organization does not monitor Cuba's solidarity programmes or to what extent its knowledge-base on health and education has been shared with other states, and therefore cannot comment on whether these recommendations have been implemented.

<sup>29</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic review on Cuba*, A/HRC/11/22, 29 May 2009, recommendation 130.4 (Jamaica), (A/HRC/11/22).

<sup>30</sup> A/HRC/11/22, recommendation 130.42 (Brazil).

human rights mechanisms,<sup>31</sup> and the Standard Minimum Rules for the Treatment of Prisoners.<sup>32</sup>

### **Promotion and protection of human rights**

With respect to advancing the promotion and protection of human rights, Amnesty International notes that Cuba's repressive legal framework - limiting the rights to freedom of expression, association, assembly and movement - remains unchanged.

Cuba has also yet to ratify the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both of which Cuba signed in February 2008. At the time of the Human Rights Council's adoption of the outcome of Cuba's first review, Cuba noted that it needed sufficient time to assess the provisions of the Covenants and its own political and judicial system to ensure their compatibility.<sup>33</sup>

In practice, Amnesty International has noted that respect for fundamental human rights has not progressed in Cuba since its first review. In fact, during this period, repression of the peaceful exercise of civil and political rights has increased. Independent journalists, human rights activists and political opponents have often been harassed by state security services, and some have been detained and sentenced. Moreover, there has been a steady increase in the number of arbitrary detentions since 2009.

### **Abolition of the death penalty**

During its first review, Cuba accepted a recommendation to refrain from applying the death penalty, and took under consideration a recommendation to reduce the number of criminal offences punishable by the death penalty, or to take measures towards its abolition.<sup>34</sup> In setting out its view on the recommendations taken under consideration, Cuba noted that it was "philosophically" against the punishment and in favour of "eliminating [the death penalty] when conditions are right". However, Cuba also stated that it needed to maintain the death penalty in its legislation in order to defend its national security against terrorist attacks.<sup>35</sup>

In 2010, the People's Supreme Court commuted the death sentences of the last two political prisoners on death row.<sup>36</sup> At the time of this writing, Amnesty International believes that no prisoners are on death row.

### **Cooperation with UN special procedures and treaty bodies**

Regarding the recommendation supported by Cuba to strengthen its cooperation with UN Special

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<sup>31</sup> A/HRC/11/22, recommendations 130.34 (Brazil) and 130.37 (Chile).

<sup>32</sup> A/HRC/11/22, recommendation 130.45 (The Netherlands).

<sup>33</sup> Human Rights Council, *Informe del Grupo de Trabajo sobre el Examen Periódico Universal, Adición*, A/HRC/11/22, 29 May 2009, Add.1, page 2 (A/HRC/11/22).

<sup>34</sup> A/HRC/11/22. Cuba accepted recommendation 130.42 (Brazil), and took under consideration recommendation 131.13 (Italy).

<sup>35</sup> Human Rights Council. *Report of the Working Group on the Universal Periodic Review of Cuba – Addendum*. A/HRC/11/22/Add.1, 29 May 2009, page 10 (A/HRC/11/22/Add.1).

<sup>36</sup> In December 2010, the People's Supreme Court commuted the death sentences of Salvadoran nationals Raúl Ernesto Cruz León and Otto René Rodríguez Llerena to 30 years in prison. They were both convicted of terrorism charges in 1999. On 28 December, Humberto Eladio Real Suárez, a Cuban national sentenced to death in 1996 for the killing of a police officer in 1994, had his sentence commuted to 30 years in prison.

Procedures and treaty bodies, Amnesty International acknowledges Cuba's efforts to submit periodic reports to the treaty bodies.<sup>37</sup> However, Cuba has shown no commitment to working with UN Special Procedures; a visit of the Special Rapporteur on torture was agreed in 2009, but has not yet gone ahead. So far, Cuba has failed to issue an invitation to the Special Rapporteur on freedom of association and assembly, who requested to visit in 2003 and again in 2011, or to the Special Rapporteur on freedom of religion, who requested to visit in 2006.

### ***Application of the standard minimum rules for the treatment of prisoners***

Amnesty International receives regular reports that could indicate a breach of the Standard Minimum Rules for the Treatment of Prisoners, including ill-treatment of common and political prisoners. The organization has concerns based on interviews with former prisoners of conscience who were released between 2009 and 2011; however, it is unable to verify the validity of current reports first hand. For this reason, Amnesty International believes that it is paramount that Cuba allows the Special Rapporteur on torture to visit the country and have unrestricted access to the prison population.

### ***Shortcomings in Cuba's first universal periodic review***

In Amnesty International's view, Cuba's first review in February 2009 was highly politicized and resulted in a weak review of Cuba's human rights record. With few exceptions, most of the recommendations made by other states did not address the human rights situation in Cuba.

Amnesty International also regrets that Cuba rejected some of the recommendations by claiming that existing national institutions and legislation offer full protection of human rights and do not require further change. On these grounds, Cuba rejected the need to establish a national human rights institution in accordance with the Paris Principles<sup>38</sup> and refused to ratify the Optional Protocol to the Convention against Torture.<sup>39</sup> Cuba also rejected a recommendation to provide full access to the International Committee of the Red Cross to prisons,<sup>40</sup> and to establish a system of review of its prisons by the UN and other international observers.<sup>41</sup>

## **GERMANY**

At the time of its first UPR in February 2009, Germany accepted a number of recommendations on issues that are key to improving the human rights situation in the country, including on racism and discrimination;<sup>42</sup> on migrants, asylum-seekers and minority groups;<sup>43</sup> and on the ratification and

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<sup>37</sup> At the time of writing, Cuba has overdue reports only on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and the initial report to the Committee on the Rights of Persons with Disabilities (overdue since June 2010).

<sup>38</sup> A/HRC/11/22/Add.1, paragraph 6.

<sup>39</sup> A/HRC/11/22/Add.1, paragraph 3.

<sup>40</sup> A/HRC/11/22/Add.1, paragraph 10.

<sup>41</sup> A/HRC/11/22/Add.1, paragraph 14.

<sup>42</sup> Human Rights Council. *Report of the Working Group on the Universal Periodic Review on Germany*, A/HRC/11/15, recommendations 81.9 (Finland), 81.11 (Netherlands), 81.12 (Pakistan), 81.13 (Iran, Chad, Algeria, South Africa, Brazil), 81.14 (Malaysia, Qatar), 81.15 (Ghana, Saudi Arabia), 81.17 (Iran, Djibouti), 81.18 (Cuba), 81.19 (Pakistan), and 81.20 (Algeria).



implementation of international human rights law and standards.<sup>44</sup>

### ***International human rights standards***

Some positive steps have been taken by the government to give effect to these recommendations, including the establishment in 2009 of a National Preventive Mechanism as required by the Optional Protocol to the Convention against Torture. However, Amnesty International is concerned that the inadequate resources provided to it may prevent the mechanism from functioning effectively.

In another positive move, Germany has recently withdrawn its reservations to the Convention on the Rights of the Child, despite having rejected a recommendation to do so during its first Universal Periodic Review.<sup>45</sup> Amnesty International remains concerned, however, that the Convention is not fully implemented as regards unaccompanied or separated asylum-seeking children.

### ***Migrants, asylum-seekers and minority groups***

Much remains to be done as regards other issues on which Germany accepted recommendations during the first review. Amnesty International is particularly concerned about the lack of progress on issues facing migrants and asylum-seekers, such as the lack of effective protection for some asylum-seekers, including as regards the right to remain; the accelerated asylum determination procedure, known as the “Airport Procedure”; and forcible returns.

In Amnesty International’s view, the 2009 UPR did not adequately address a number of key human rights concerns on issues such as the situation of migrants in Germany and the use of diplomatic assurances for the purpose of deporting “terrorist” suspects.

### ***Excessive use of force***

Finally, Amnesty International regrets that during the 2009 review, Germany rejected a recommendation to strengthen efforts to prevent law enforcement officials from using excessive force and to put in place independent complaints mechanisms.<sup>46</sup> At the time of the review, Germany claimed that excessive force by police was uncommon and that sufficient complaints mechanisms were already available.<sup>47</sup> However, although some federal states have improved the independence of investigations in cases of alleged excessive use of force by police, no federal state has established an independent body to investigate such cases.<sup>48</sup>

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<sup>43</sup> A/HRC/11/15, recommendations 81.32 (Italy, Canada, Saudi Arabia), 81.36 (Canada), 81.37 (Egypt, Malaysia), 81.38 (South Africa, Canada, Pakistan, Mexico), 81.39 (Russia), 81.40 (Egypt), and 81.41 (United Kingdom).

<sup>44</sup> A/HRC/11/15, recommendations 81.3 (France), 81.6 (Pakistan, Iran), 81.7 (Pakistan) and 81.8 (Benin, United Kingdom).

<sup>45</sup> A/HRC/11/15, recommendation 81.4 (Brazil).

<sup>46</sup> A/HRC/11/15, recommendation 81.23 (Netherlands, Djibouti).

<sup>47</sup> Human Rights Council. *Addendum to the Report of the Working Group of the Universal Periodic Review – Germany*, A/HRC/11/15/Add.1, paragraph 23.

<sup>48</sup> There are specialized units in the following federal states: Baden-Württemberg, Bavaria, Mecklenburg-Western-Pomerania, Northrhine-Westphalia, Rhineland-Palatinate, Saarland, Saxony and Saxony-Anhalt.

## **RUSSIAN FEDERATION**

During its first review in 2009, the Russian Federation supported a number of recommendations, including the following:

### ***Ratification of international instruments***

The Russian Federation accepted recommendations to ratify the Convention for the Protection of All Persons from Enforced Disappearance;<sup>49</sup> it has, however, failed to act on these.

The Russian Federation rejected the recommendation to accede to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT) and stated that the Public Monitoring Commissions, established under the European Convention on the Prevention of Torture, largely duplicate the provisions of the OP-CAT.

### ***Human rights defenders, journalists and lawyers***

The Russian Federation accepted recommendations to protect human rights defenders, including by revising legislation on combating extremism and on NGOs to conform to international standards.<sup>5051</sup> Amnesty International is concerned to note that, as yet, the Law ‘On Combating Extremist Activities’ has not been revised. New pieces of legislation governing the operation of NGOs were introduced during 2012 which, contrary to the Russian Federation’s commitments, signal further stifling of civil society activism (see also below).<sup>52</sup>

### ***Reform of the judiciary***

The Russian Federation accepted recommendations to reform its judiciary, including by increasing its independence.<sup>53</sup> However, the steps taken so far by the government have failed to ensure the independence of the judiciary and to fully uphold the principles of fair trial.

### ***Women’s human rights***

The Russian Federation supported recommendations to promote equality between men and women and to adopt specific legislation on combating domestic violence.<sup>54</sup> Amnesty International is concerned to note that no such legislation has yet been adopted. Violence against women in the family remains widespread.

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<sup>49</sup> Human Rights Council. Report of the Working Group on the UPR of the Russian Federation. A/HRC/11/19. Paragraphs 85.4 (UK, Brazil, Mexico), and 85.7 (Argentina, Mexico).

<sup>50</sup> A/HRC/11/19, Paragraphs 85.42 (Slovakia, Netherlands), 85.43 (Australia, Italy, Norway, Switzerland), 85.45 (Netherlands, and 85.46 (Austria)

<sup>51</sup> Human Rights Council. Report of the Working Group on the UPR of the Russian Federation. A/HRC/11/19. Paragraphs 85.42 (Slovakia, Netherlands)

<sup>52</sup> Amnesty International, ‘Russian Federation: Freedom of Association under a New Attack’, public statement, 13 July 2012 (AI Index: EUR 46/029/2012); Amnesty International, “‘Dima Yakovlev’ Bill in no one’s best interests’, press release, 20 December 2012 (AI Index: PRE01/628/2012).

<sup>53</sup> A/HRC/11/19, Paragraphs 85.35 (Malaysia) and 85.36 (New Zealand)

<sup>54</sup> A/HRC/11/19, Paragraphs 85.27 (Algeria, Belarus) and 85.32 (Czech Republic, South Africa, New Zealand, Sweden).

### ***Torture and other ill-treatment***

The Russian Federation supported recommendations to step up efforts to combat torture and to address the concerns of the Committee against Torture about the use of torture and other ill-treatment in the North Caucasus.<sup>55</sup> However, despite a number of steps taken, torture and other ill-treatment, and impunity for the perpetrators, remain widespread across the Russian Federation.

### ***The death penalty***

Amnesty International regrets that the Russian Federation rejected a number of recommendations concerning the death penalty<sup>56</sup> on the grounds that no executions have been carried out since 1996 and that all individuals sentenced to death have had their sentences commuted to 25 years or life imprisonment.<sup>57</sup> Amnesty International welcomes, however, the November 2009 decision of the Russian Constitutional Court to extend the moratorium on executions.<sup>58</sup>

### ***Lesbian, gay, bi-sexual, transgender and intersex (LGBTI) rights***

In its review in 2009, the Russian Federation rejected a recommendation to take policy measures to promote tolerance of LGBTI persons on the grounds that there was no official policy of discrimination against them.<sup>59</sup> However, in recent years laws banning “propaganda of homosexuality, lesbianism, bisexuality and transgenderism amongst minors” have entered into force in nine of Russia’s regions, and a similar draft has received a nearly-unanimous support in the federal parliament.

## **TURKMENISTAN**

At the time of its first Universal Periodic Review in 2008, Turkmenistan accepted recommendations on key human rights issues, including to improve its cooperation with UN human rights mechanisms;<sup>60</sup> to guarantee the rights to freedom of expression, association and assembly and end harassment and intimidation of journalists;<sup>61</sup> to allow independent non-governmental organizations to register and work freely;<sup>62</sup> and to fully respect the freedom of movement.<sup>63</sup> Since then, very little progress has been made on these issues, and Turkmenistan has failed to take adequate measures to implement the UPR recommendations it accepted.

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<sup>55</sup> A/HRC/11/19, Paragraphs 85.29 (Denmark, Australia)

<sup>56</sup> A/HRC/11/19, Paragraphs 85.1 (Germany, Australia) and 85.2 (Germany, Brazil, Australia).

<sup>57</sup> Human Rights Council, Addendum to the Working Group Report on the UPR of the Russian Federation, A/HRC/11/19/Add.1/Rev.1, pg 2.

<sup>58</sup> Russia moves one step closer to death penalty abolition. Amnesty International. November 20, 1999. <http://www.amnesty.org/en/news-and-updates/good-news/russia-moves-one-step-closer-death-penalty-abolition-20091120>

<sup>59</sup> A/HRC/11/19, Paragraph 85.28 (Sweden) and A/HRC/11/19/Add.1, page 5.

<sup>60</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review of Turkmenistan*, A/HRC/10/79, paragraph 69.5 (Germany, Bangladesh, Malaysia, Republic of Korea, Uruguay) (A/HRC/10/79).

<sup>61</sup> A/HRC/10/79, paragraph 69.13 (Italy, Mexico, Sweden).

<sup>62</sup> A/HRC/10/79, paragraph 69.14 (Poland, Netherlands, Germany).

<sup>63</sup> A/HRC/10/79, paragraph 69.16 (Norway)..

### ***UN human rights mechanisms***

As regards cooperation with UN human rights mechanisms, the authorities have allowed the Special Rapporteur on freedom of religion or belief to visit, and have submitted periodic reports to some of the UN treaty bodies. However, several other UN Special Procedures have requested visits, but have not been granted access. A request by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment for permission to visit the country has been pending since 2003. The UN Working Group on arbitrary detention has requested to visit repeatedly since 2004, but to date has not been granted access.

### ***Freedom of expression, association and assembly***

With respect to the commitments Turkmenistan made to guarantee freedom of expression, association and assembly and prevent harassment and intimidation of journalists, Amnesty International considers that there has been no genuine attempt on the part of the authorities to improve the situation. On the contrary, freedom of expression continues to be under threat and critical media reporting is rarely tolerated. Amnesty International's research shows that journalists, human rights defenders and other activists continue to be subjected to harassment, torture and other ill-treatment, arbitrary detention and imprisonment following unfair trials, as discussed in more detail below. Similarly, Turkmenistan has failed to take measures to allow independent non-governmental organizations to work freely without harassment, or to reform the registration process for such organizations.

Despite Turkmenistan's commitment to fully respect the right to freedom of movement, the problematic "propiska" system of registering an individual's place of residence also remains in place. This restricts freedom of movement and impedes access to housing, employment and services, as discussed below.

### ***Gaps in the previous review***

Amnesty International regrets that most of the recommendations accepted by Turkmenistan during the 2008 review were very general in nature, while vital recommendations were rejected, including in relation to persons incarcerated on politically motivated charges.<sup>64</sup> Amnesty International also notes with concern that most of the issues raised in its previous submission to the UPR have still not been addressed by the Turkmenistani authorities.<sup>65</sup> In addition to the issues already highlighted, these include concerns over the definition of "high treason", enforced disappearances following unfair trial, restrictions on the right to freedom of religion, conscientious objection to military service, and discrimination against ethnic minorities.

## **UZBEKISTAN**

In the first Universal Periodic Review (UPR) of Uzbekistan in December 2008, 31 recommendations were supported by the authorities, 12 were taken under consideration, 27 were considered implemented or in the process of being implemented and 16 recommendations were rejected.

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<sup>64</sup> A/HRC/10/79, paragraph 69.71, referring to recommendations made in paragraphs 29 (g) (Canada); 40 (a) (Czech Republic); 41 (a) (Germany); and 43 (last sentence) (United Kingdom).

<sup>65</sup> Amnesty International, *Turkmenistan: Submission to the UN Universal Periodic Review: Third session of the UPR Working Group of the UN Human Rights Council, December 2008* Amnesty International EUR 61/005/2008, 21 July 2008.

Regarding the recommendations taken under consideration, Uzbekistan failed to indicate its position on these and only made general comments in the report addendum presented to the 10th session of the Human Rights Council.<sup>66</sup>

### **May 2005 events**

Uzbekistan categorically rejected calls by several states to allow a thorough, impartial and independent international investigation into the events of May 2005.<sup>67</sup> Of particular dismay to Amnesty International is the fact that during the interactive dialogue in the Working Group, the government representatives rejected as unfounded reports that excessive and disproportionate force had been used. The government continues to assert, as it did in December 2008, that two rounds of expert talks with representatives of the European Union (EU) in December 2006 and April 2007 have addressed all the relevant issues.<sup>68</sup> At the review, the government stated that it considered the issue closed and it has emphatically reaffirmed this position both at the UN Human Rights Committee's examination of Uzbekistan's implementation of the International Covenant on Civil and Political Rights (ICCPR) in March 2010 and again during successive rounds of the EU-Uzbekistan Human Rights Dialogue in 2011 and 2012. The Uzbekistani representatives insist that the Andizhan events were a strictly internal matter and that no international body or foreign state has the right to call for an international investigation into mass killings. However, Amnesty International considers that the talks with the EU are not a substitute for and are not sufficient to fulfil the government's obligation under international law to ensure an effective, independent and impartial investigation.

### **National human rights mechanism**

Uzbekistan supported recommendations by several states to establish a national independent mechanism to monitor all places of detention and to consider complaints.<sup>69</sup> Amnesty International welcomes Uzbekistan's support of these recommendations and considers that such a mechanism could significantly contribute towards protecting individuals deprived of their liberty from torture or other ill-treatment. This recommendation has also been made repeatedly by UN mechanisms, including the Human Rights Committee in 2001, 2005 and 2010.<sup>70</sup> However, to date, no such national independent mechanism has been established.

### **Human rights defenders**

Amnesty International deeply regrets Uzbekistan's rejection of recommendations by several states

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<sup>66</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review – Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, A/HRC/10/83/Add.1, 13 March 2009, paragraph 97 (A/HRC/10/83/Add.1).

<sup>67</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review of Uzbekistan*, A/HRC/10/83, paragraph 33a (Chile), 33b (Chile) 65a (Canada), 79h (Czech Republic) (A/HRC/10/83).

<sup>68</sup> In October 2008 the EU's General Affairs and External Relations Council (GAERC) decided to fully lift the visa ban it had imposed on 12 Uzbekistani officials. Disappointingly GAERC's final conclusions in October 2008 failed to mention the events at Andizhan or the demand for an international independent investigation of them. In October 2010 GAERC also decided to lift the arms embargo it had imposed on Uzbekistan.

<sup>69</sup> A/HRC/10/83, paragraph 104.11 (France), paragraph 104.12 (United Kingdom).

<sup>70</sup> Human Rights Committee, *Concluding observations of the Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Uzbekistan*, CCPR/C/UZB/CO/3, 7 April 2010 (CCPR/C/UZB/CO/3).

during the review in 2008 to release all detained human rights defenders, including on the basis that such information was “factually wrong”.<sup>71</sup> The Uzbekistani authorities have long disputed that human rights defenders are detained and imprisoned. At the March 2010 session of the Human Rights Committee, the Uzbekistani delegation flatly denied that human rights defenders were detained and persecuted. The delegation insisted that Uzbekistan’s “enemies” were waging an “information war” against the country and that international NGOs were paid to spread defamation and disinformation.<sup>72</sup> Uzbekistan remains intransigent in their position on human rights defenders. The authorities have released some human rights defenders over the past four years under the terms of presidential amnesties or under international pressure ahead of high-level diplomatic visits by foreign government representatives. However, at least eight human rights defenders continue to serve long prison terms in cruel, inhuman and degrading conditions of detention, including human rights defenders Salidzhon Abdurakhmanov and Agzam Turgunov.<sup>73</sup>

### ***Cooperation with international mechanisms***

Uzbekistan also supported recommendations to strengthen and deepen its interaction with relevant international mechanisms.<sup>74</sup> The authorities briefly granted temporary shelter to tens of thousands of ethnic Uzbek refugees who fled violence in neighbouring southern Kyrgyzstan in June 2010. The authorities allowed emergency teams from UNHCR access to Uzbekistan and the refugee camps, for the first time since ordering the agency to leave the country in 2006. The access, however, was only temporary and UNHCR had to close its emergency operations in Uzbekistan and leave the country once the majority of refugees had returned to Kyrgyzstan in August 2012. Uzbekistan continues to refuse to allow the UN Special Rapporteur on torture to visit the country despite renewed requests. The UN Special Rapporteur on human rights defenders has also repeatedly requested to undertake an official visit to the country; however, by September 2012 the authorities had yet to extend such an invitation. Uzbekistan has also not extended a standing invitation to the Special Procedures of the UN Human Rights Council.

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<sup>71</sup> A/HRC/10/83, paragraphs 43a (Austria), 44 (Belgium), 50a (Spain), 50b (Spain), 65d (Canada), 67a (Switzerland), 87a (Norway).

<sup>72</sup> Oral presentation by the Uzbekistani delegation at the March 2010 examination of the state’s implementation of its obligations under the ICCPR at the United Nations Human Rights Committee’s 98<sup>th</sup> session in New York, 8-26 March 2010.

<sup>73</sup> Uzbekistan rejected the recommendation by Spain to release the two human rights defenders specifically: “Liberate all human rights defenders who remain in prison about the situation of Solijon Abdurakhmanov and Agzam Turgunov”, A/HRC/10/83, paragraph 50a (Spain) (A/HRC/10/83).

<sup>74</sup> A/HRC/10/83, paragraph 104.8 (Malaysia, Bangladesh).