

Universal Periodic Review

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Remarks on enforced disappearances

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GUATEMALA

A/HRC/WG.6/2/L.4

13 May 2008

12. The Government is pursuing with Congress the ratification of the International Convention on the Protection of All Persons from Enforced Disappearances, and a law that would establish a National Commission to Find the Disappeared.

21. In response to written questions, the delegation made additional comments. In relation to attacks on human rights defenders, a body has been created and a process developed to deal with such offences in coordination with the OHCHR and organizations of human rights defenders. On cases of enforced disappearance, Guatemala has established a special unit on human rights in the Prosecutor's office. The Government has also been working on reforms of the criminal code, particularly on torture and enforced disappearances. It has ratified the Optional Protocol to the Convention against Torture.

26. Mexico noted the Government's commitment in the area of human rights and the prevention of juvenile violence. It requested more details on the structure and mandate of the CICIG and on its strategy to achieve its objectives, particularly as concerns combating groups that operate outside of the law. It recommended that, within the limits of its abilities, Guatemala advance toward the adoption of the national human rights policy and the NHRAP; that it recognize the competence of CERD; and that it ratify the Rome Statute of the International Criminal Court, the International Convention on the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities. It also recommended that Guatemala amend the Criminal Code to bring it in line with international human rights norms, in relation to racial discrimination and gender issues.

45. France recommended that Guatemala ratify the Rome Statute of the ICC. On the issue of impunity, it noted that many crimes are neither investigated nor prosecuted, and that the levels of violence remain high, and asked about practical steps to improve the effectiveness of the judiciary and the police. Noting that Guatemala has signed the Convention and is a member of the "Group of Friends of the Convention" France recommended that Guatemala ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

67. Tunisia commended Guatemala on its consolidation of the process of democratization, in particular on the free, transparent and democratic elections of January 2008, which reflected the commitment to further promote social peace and development. It also welcomed reforms aimed at aligning domestic legislation with international standards, efforts to consolidate the national human rights legal framework, the ongoing consultations on submitting to Congress the Convention on the Rights of Persons with Disabilities and the International Convention

for the Protection of All Persons from Enforced Disappearance, and measures to improve the lives of indigenous peoples.

CONCLUSIONS AND/OR RECOMMENDATIONS

89. In the course of the discussion, the following recommendations were made to Guatemala:

1. Ratify the Rome Statute of the International Criminal Court (Mexico, Portugal, Canada, the Netherlands, France, Italy), the International Convention on the Protection of All Persons from Enforced Disappearance (Mexico, France), the Convention on the Protection of Persons with Disabilities and its Optional Protocol (Mexico), and accept article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (Mexico, South Africa), as well as continue its efforts in respect of the Optional Protocol of the Convention against Torture (Brazil).

GABON

A/HRC/WG.6/2/L.1

9 May 2008

20. France requested Gabon to provide more information on the issue of the discrimination of indigenous peoples – Pygmies - and on the implementation of the United Nations Declaration on the Rights of Indigenous Peoples, considering that Gabon voted in favour of its adoption in the General Assembly. France also asked about the Government's intention to sign the International Convention for the Protection of All Persons from Enforced Disappearance, and recommended to Gabon to sign and ratify this important instrument at the earliest possible date.

CONCLUSIONS AND/OR RECOMMENDATIONS

60. In the course of the discussion, the following recommendations were made to Gabon:

3. To sign and ratify the International Convention for the Protection of All Persons Against Enforced Disappearance (France).

PERU

A/HRC/WG.6/2/L.3

9 May

18. Canada stated that implementing recommendations of the Truth and Reconciliation Commission (TRC) would strengthen human rights and combat impunity. Canada recommended that efforts be intensified to act upon the recommendations of the report. Canada noted reports of complaints of torture by police, military and prison officials and reports of reprisals against those reporting these cases. While recognizing the investigations of these cases and progress being made in repealing amnesty laws and bringing proceedings against officials for the acts of torture, Canada noted that the Committee against Torture expressed concern in 2006 regarding the length of the proceedings and the jurisdiction of the military criminal courts not in compliance with international obligations. Canada recommended that Peru adequately investigate all reports of acts of torture and ill-treatment, and of torture and forced disappearance perpetrated by State agents, ensuring that the military criminal justice system does not carry out these investigations. It also recommended ensuring that efforts are made to protect those reporting from reprisals, as well as the implementation of recommendations of the Committee against Torture. Further to the recommendation by the

Committee against Torture, Canada recommended that Peru continue to take measures to address the issue of prison crowding and conditions, including providing prisoners with access to medical staff and court-appointed counsel.

37. Mexico noted the progress made regarding the participation of women in political life, the legal status of indigenous communities, the review of cases and the imprisonment of people judged by the military tribunals in the period of 1980-2000, and the reestablishment of the competency of the Inter-American Court for Human Rights. Mexico noted the National Plan for the Integrated Reform of the Administration of Justice the implementation of which is not complete and requested information on the main elements of the plan and its expected impact on combating impunity. As regards the elimination of torture, Mexico recommended to Peru to cooperate more closely with the Committee against Torture, particularly by setting up a national complaint registration and investigation system, and to establish a national mechanism for the prevention of torture as determined by the Optional Protocol to CAT. It also recommended the ratification of the International Convention for the Protection of All Persons against Enforced Disappearance and to undertake legislative reform to criminalize trafficking in persons, in line with the Palermo Protocol.

40. France noted that there were nearly 3,000 outstanding cases of forced disappearance dating from the period of the civil war. France enquired what measures Peru had envisaged to take to shed light on these cases. France encouraged Peru to sign and ratify the International Convention on the Protection of All Persons from Enforced Disappearance and implement all recommendations made by the TRC, in particular with regard to victims' compensation and institutional reforms.

CONCLUSIONS AND/OR RECOMMENDATIONS

In the course of the discussion, the following recommendations were made to Peru:

4. (a) To promptly, impartially and thoroughly investigate all reports of acts of torture and ill-treatment, and torture and forced disappearance perpetrated by agents of the State, ensuring that the military criminal justice system does not carry out these investigations, and take further efforts to ensure that those who report acts of torture or ill-treatment are protected from intimidation and reprisals and to implement the recommendations of the Committee against Torture made in this regard (Canada);

16. To consider signing and ratifying the International Convention for the Protection of All Persons from Enforced Disappearance (Mexico, France).

SOUTH KOREA

A/HRC/WG.6/2/L.6

13 May 2008

17. France enquired whether the Republic of Korea envisaged formally abolishing the death penalty, or at least to adopt a de jure moratorium. It wished to hear more on measures envisaged to combat discrimination, including based on sexual orientation, particularly in the field of employment. France asked about measures envisaged to reform the statute of the NHRCK and to what extent these measures would contribute to strengthening the Commission and the respect of the Paris Principles. Lastly, France recommended that the Republic of Korea sign the International Convention for the Protection of All Persons from Enforced Disappearance

53. In response to additional questions, the Republic of Korea explained its policy on the ratification of international human rights treaties and withdrawal of reservations. The Republic of Korea continues to consider signing the International Convention for the Protection of All Persons from Enforced Disappearance and is examining the scope of its domestic legislation, including the revision of punishment provisions.

CONCLUSIONS AND/OR RECOMMENDATIONS

In the course of the discussion, the following recommendations were made to South Korea:

16. To sign the International Convention for the Protection of All Persons from Enforced Disappearance (France);

SWITZERLAND

A/HRC/WG.6/2/L.7

14 May 2008

7. The main observations made by NGOs have been included in the report. For example, with regard to the creation of a national human rights institution, a working group consisting of representatives of the cantons, the Confederation and of parliamentarians held meetings over the last few months and drafted a report for the Federal Government on the feasibility of setting up a national human rights institution. Switzerland was exploring the opportunity to ratify the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities.

17. France joined previous statements that the lack of a national human rights institution undermines a comprehensive view of the human rights situation in Switzerland, and reiterated its interest on developments on this matter. It also took note of the related study on the legal impact of the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance, and recommended that it be ratified.

32. Turkey asked whether Switzerland was considering the accession to ICRMW, the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities, and encouraged Swiss authorities to continue their efforts regarding gender equality. It noted that the interpretation of certain articles of the Swiss Criminal Code, such as provisions contained in article 261bis, may limit the enjoyment of freedom of expression.

36. Japan thanked Switzerland for organizing a Universal Periodic Review seminar early this year. Understanding that the Federal authorities are considering the possibility of signing the International Convention for the Protection of All Persons from Enforced Disappearance, and are examining the impact of this instrument on the domestic legal system, Japan requested Switzerland to elaborate more on the current status of the consideration of this issue.

47. Thailand welcomed Switzerland's unwavering commitment to signing the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities.

CONCLUSIONS AND/OR RECOMMENDATIONS

**In the course of the discussion, following recommendations were made to Switzerland:
13. To sign the International Convention for the Protection of All Persons from Enforced Disappearance (France, Mexico).**

PAKISTAN

A/HRC/WG.6/2/L.8

15 May 2008

30. The United Kingdom asked about what steps Pakistan will take to investigate arbitrary arrests, enforced disappearances, extrajudicial killings and torture perpetrated by security forces.

33. Mexico recommended that Pakistan ratify the Rome Statute, the International Convention on the Protection of All Persons from Enforced Disappearance and the 1977 Protocols Additional to the Geneva Conventions of 12 August 1949. Mexico is aware of the challenges faced by Pakistan in combating terrorism, and appeals to it that in so doing, it strictly adheres to international human rights, humanitarian and refugee law. Mexico requested information on the status of the 1951 Refugee Convention and its 1967 Protocol.

37. France welcomed the launching of a procedure to establish a national institution and asked about steps to ensure that its status is in accordance with the Paris Principles. France enquired whether Pakistan envisages the ratification of the International Convention on the Protection of All Persons from Enforced Disappearance and recommended that it do so.

83. Greece asked how many reported cases of arbitrary detention and enforced disappearances of those suspected of links to terrorist groups have been investigated and whether those responsible have been identified.

104. Pakistan stated that it is about to accede to the International Convention for the Protection of All Persons from Enforced Disappearances.

CONCLUSIONS AND/OR RECOMMENDATIONS

In the course of the discussion, following recommendations were made to Pakistan:

27. To adjust its national laws to the international obligations undertaken (Holy See, Norway, Netherlands, Brazil, Australia), speed up ratification of the ICCPR (Chile, Holy See, Mexico, Switzerland, Norway, Brazil, Denmark), the Convention against Torture (Chile, Mexico, Switzerland, Czech Republic, Brazil, Denmark) and the OP-CAT (Czech Republic), ratify the Rome Statute of the International Criminal Court (Mexico), the International Convention for the Protection of All Persons from Enforced Disappearance (France, Brazil, Mexico) and the 1977 Additional Protocols to the Geneva Conventions (Mexico), and follow through by implementing the commitments and obligations of the ICESCR (Australia)

JAPAN

A/HRC/WG.6/2/L.10

20 May 2008

27. Albania noted Japan's role during the negotiations and the adoption of the International Convention on the Protection of All Persons from Enforced Disappearance and recommended that Japan complete the internal processes as soon as possible to ratify it, and also recommended that Japan ratify, as soon as possible, the First and Second Optional Protocols to ICCPR, the Optional Protocol to CAT and the Optional Protocol to the Convention on the Elimination of Discrimination against Women.

49. Argentina commended Japan on the efforts it made, noting that it is close to ratifying the International Convention for the Protection of All Persons from Enforced Disappearance so as to achieve its early entry into force.

CONCLUSIONS AND/OR RECOMMENDATIONS

In the course of the discussion, the following recommendations were made to Japan:

1. Consider ratifying/Ratify the First Optional Protocol to the International Covenant on Civil and Political Rights and the Second Optional Protocol to the International Covenant on Civil and Political Rights (Albania), the Optional Protocol to the Convention against Torture (United Kingdom, Albania, Mexico, Brazil) the Optional Protocol to the Convention on the Elimination of Discrimination against Women (Portugal, Albania, Mexico, Brazil), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Peru), the Convention on the Rights of Persons with Disabilities (Mexico), the International Convention on the Protection of All Persons from Enforced Disappearance (Albania), the Hague Convention on Civil Aspects of International Child Abduction, 1980 (Canada, Netherlands); as well as to recognize the competence of the Committee on the Elimination of Racial Discrimination to receive and consider individual complaints (Mexico, Brazil); Sign the Second Optional Protocol to the International Covenant on Civil and Political Rights (Portugal);

UKRAINE

A/HRC/WG.6/2/L.11

15 May 2008

35. France asked whether Ukraine intends to amend its criminal legislation in order to provide a legal foundation to prosecute for discrimination against minorities. It also inquired whether Ukraine intends signing and ratifying the International Convention for the Protection of All Persons from Enforced Disappearance, and if not, what difficulties it is confronted with in ratifying that convention. Regarding freedom of the press, France asked about measures the Government intends to take to promote a greater independence of the media vis-à-vis the business world and whether it envisages setting up a system of public financing of the media. France recommended that Ukraine take all measures necessary to ensure that all acts of violence against journalists be investigated and that appropriate punishments are meted out.

56. Regarding the accession to international instruments, such as the Convention on Enforced Disappearance and the ICRMW, this information can be provided after the delegation returns to Ukraine. The head of the delegation stated that all other questions will be reflected in practical actions taken by the Government, through new legislation and amendments to existing legislation, and integrated into the implementation of Ukraine's international and Council of Europe obligations.

SRI LANKA

A/HRC/WG.6/2/L.12

15 May 2008

26. Sweden raised the issue of numerous disappearances and child recruitment, not only related to the LTTE. In spite of numerous national efforts, impunity persists. Calls made for independent international monitoring of the situation has not yet been accepted by Sri Lanka. Sweden urged that (a) measures against impunity in relation to disappearances and child recruitments as well as (b) an acceptance of independent international monitoring be taken up as recommendations.

33. France asked what measures are envisaged to ensure the independence of the NHRC and how it will ensure follow-up to the recommendations of the Special Rapporteur on the question of torture. France recommended that Sri Lanka (a) sign and ratify the International Convention for the Protection of All persons from Enforced Disappearance, (b) adopt measures to shed light on a number of existing enforced disappearances and comply with the request to visit by the Working Group on Enforced or Involuntary Disappearances. France enquired what steps were intended to address impunity and recommended (c) that Sri Lanka ratify the Rome Statute on the International Criminal Court and (d) that the recommendations of the Special Rapporteur on the question of torture be implemented in accordance with a set timetable.

36. The Holy See commended Sri Lanka on the numerous national human rights mechanisms put in place and attention was drawn to the plight of the many child soldiers who are enrolled by the Tigers, but also, as confirmed by many reports, by the Karuna group, which seems close to the Government. The Holy See encouraged the authorities of Sri Lanka to investigate the involvement of the paramilitary Karuna Group of abducting children for use as soldiers. The Holy See requested Sri Lanka to share the findings of the special bodies created to stop the persistent pattern of enforced disappearances and the measures put into place to address this problem.

47. New Zealand expressed concern about the reported increase in enforced disappearances, extra judicial killings and violations of international humanitarian law since the resumption of hostilities, and about the little concerted efforts to effectively investigate such violations. It asked about steps to protect the human rights of victims from minority communities which are disproportionately affected. While noting the zero- tolerance policy for child recruitment and steps made to rehabilitate former child soldiers, New Zealand remained concerned at reports that child recruitment continues. New Zealand recommended that Sri Lanka take further steps to improve the effectiveness of its measures to combat the recruitment of child combatants and welcomed Sri Lanka's comments on this proposed recommendation.

52. As regards the issue of disappearances, it is not safe to consider the nature and the magnitude of the problem on the basis of unsubstantiated statistics. The Government is studying credible reports and information so as to identify the nature of the problem, its magnitude, possible reasons, and the identities of those who are responsible. It is not the policy of the State to illegally and surreptitiously arrest persons and detain them in undisclosed locations or to extra judicially eliminate arrested and detained suspects. He said that the Government is determined to ensure that all complaints are comprehensively and

impartially investigated into, perpetrators identified, and evidence against them collected, so that such persons can be prosecuted.

60. Japan noted the existence of fewer cases of kidnappings, forced disappearances and extrajudicial killings compared to before and expressed its hope that Sri Lanka could double its efforts to prevent similar cases and to ensure bringing all perpetrators to justice.

CONCLUSIONS AND/OR RECOMMENDATIONS

In the course of the discussion, the following recommendations were made to Sri Lanka:

17. Increase its efforts to further prevent cases of kidnapping, forced disappearances and extrajudicial killings; ensure that all perpetrators are brought to justice; and enhance its capacity in the areas of crime investigations, the judiciary and the NHRC, with the assistance of the international community (Japan);

26. Adopt measures to investigate, prosecute and punish those responsible for serious human rights crimes such as enforced disappearances, in accordance with international norms and in a transparent manner (Sweden);

FRANCE

A/HRC/WG.6/2/L.13

16 May 2008

14. Albania welcomed France's role in the creation of the Human Rights Council and its contribution to the negotiation and adoption of the International Convention on the Protection of All Persons from Enforced Disappearance, and recommended that France complete the domestic process in order to ratify it as soon as possible. It noted the reasons provided by France regarding the reasons it cannot consider acceding to the ICRMW. In this regard, Albania stated that holding the presidency of the European Union later in 2008 will offer an opportunity for France to take the initiative with a view to ratifying the convention on the issue at the regional level.

33. Argentina referred to the ceremony for the signature of the International Convention for the Protection of All Persons from Enforced Disappearance which took place in Paris, and noted France's written commitment to submit the text of the Convention to Parliament in the near future.

CONCLUSIONS AND/OR RECOMMENDATIONS

In the course of the discussion, the following recommendations were made to France:

1. To complete the domestic process in order to ratify the International Convention the Protection of All Persons from Enforced Disappearance as soon as possible (Albania);

7. To submit to Parliament, for early ratification, the Convention on the Rights of Persons with Disabilities, the International Convention for the Protection of All Persons from Enforced Disappearance, and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

ROMANIA

A/HRC/WG.6/2/L.15

26 May 2008

24. France encouraged Romania to better integrate Roma with regard to housing, health and education. On the rights of the child, it backed Algeria's recommendations to guarantee better the rights of the child, especially the rights to civil registry, education, health and protection against violence. On the rights of women, it recommended to Romania to strengthen efforts made to combat violence against women through information, prevention, and protection of victims and punishment of the perpetrators. With regard to persons living with HIV/AIDS as Canada mentioned, France highlighted the need to combat discrimination against HIV/AIDS patients. On enforced disappearances, it noted Romania's intention to sign the Convention and encouraged it to sign and ratify it.