



*The Universal Periodic Review of China
at the UN in Geneva*

An assessment of the Coverage of Religious Freedom Issues

THE UPR IN THEORY

THE UPR IN PRACTICE WITH CHINA

CONCLUSIONS

RECOMMENDATIONS

15 April 2009

The Universal Periodic Review of China at the UN in Geneva:

Religious Freedom Coverage

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The Universal Periodic Review (UPR) is a state-driven process under the auspices of the Human Rights Council (HRC) which reviews the human rights records of all 192 UN Member States once every four years. It provides a forum in which each Member State can be assessed in terms of the actions it has taken to improve its human rights situation, and the challenges it faces with respect to the human rights obligations contained in the Charter of the United Nations, the Universal Declaration of Human Rights, human rights instruments (covenants, conventions and other treaties) to which the State is a party, as well as voluntary pledges and commitments made by the State when presenting candidature for election to the Council. All UN Member States will be reviewed within a period of four years in the first cycle - with 48 every year and 16 per session.ⁱ

The UPR was created through the UN General Assembly on 15 March 2006 by Resolution 60/251ⁱⁱ, which established the Human Rights Council itself. It is a cooperative process which, by 2011, will have reviewed the human rights records of every country. On 18 June 2007, one year after its first meeting, members of the new Council agreed to its institution-building package ([A/HRC/RES/5/1](#)) providing a road map guiding the future work of the Councilⁱⁱⁱ. One of the key elements of this package was the new Universal Periodic Review.

The review of China was held on 9 February 2009 during the fourth session of the Working Group of the Universal Periodic Review. China's delegation was composed of 42 members and was headed by H.E. Mr. Li Baodong, Ambassador and Permanent Representative of China to the UN Office in Geneva.

The UPR in Theory

Objectives of the UPR

The objectives of the UPR are

- to address human rights violations all over the world
- to improve the human rights situation everywhere
- to encourage States to fulfill their human rights obligations and commitments
- to assess positive developments and challenges faced by States
- to enhance the capacity of the State to protect human rights
- to encourage full cooperation with the Council, its mechanisms (e.g. the Special Procedures and the Complaints Procedure) and other UN human rights bodies (e.g. the OHCHR, the treaty bodies, etc.)
- to provide technical assistance to States, when requested
- to share best practices between States and other stakeholders

The objective of the UPR is to complement, and not to duplicate, the work of the special procedures and treaty bodies.

General Description of the Mechanism

The review is carried out by a **Working Group** composed of the 47 members of the Human Rights Council^{iv} and chaired by the president of the Human Rights Council or his designate^v, usually one of his vice-presidents. They meet three times per year for two weeks^{vi}. The review is facilitated by a group of three Member States of the Council which act as Rapporteurs (also known as the **Troika**)^{vii}.

Reviews are based on three reports^{viii}. The first report is presented by the State under review; the second report is a compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR) of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official UN documents; and the third report is presented by stakeholders such as non-governmental organizations, human rights defenders, academic institutions and research institutes, regional organizations, and national human rights institutions^{ix}.

The Troika may collate and transmit written questions^x addressed to the State under review by other Member States (but is not required to do so) to facilitate and focus the review and would transmit them to the country concerned to assist in the preparation of the interactive dialogue.

The public session of the review of each State lasts three hours and consists of an **interactive dialogue** between the State under review and the Council, in which all UN Member States and Observers are able to participate by raising issues and asking questions^{xi}. Stakeholders may also attend but are not allowed to take part in the interactive dialogue.

The Troika acts as a kind of supervisor of the minutes of the interactive dialogue. Afterwards, the Troika Rapporteurs prepare a report of the review with a summary of the proceedings, recommendations and any voluntary commitments by the State^{xii}. However, some countries explicitly rejected several recommendations, and sometimes even many^{xiii}. Usually two days after the review, the Troika presents the draft report of the review to be adopted by the UPR Working Group during a half an hour session following the UPR of another State. The Troika then formally requests the Working Group to adopt the **outcome of the review** to be forwarded to the next regular session of the Human Rights Council.

At the next regular session of the **Human Rights Council**, up to one hour per State is allocated for the consideration of the outcome of each review. The final outcome of the review is adopted by consensus – not by a voting process - by the entire membership of the Council at a plenary session in which all UN Member States, Observers and other stakeholders can participate.

The outcome of the UPR is to be implemented primarily by the State concerned and, as appropriate, by other stakeholders.

The follow-up review will take place during the second cycle (2012-2015) and will focus on the implementation of the recommendations of the previous review.

National Report

The national report is one of the three main pillars the review is based upon. It is prepared by the State under review, and can be presented either orally and/or in writing, provided that the written presentation summarizing the information does not exceed 20 pages^{xiv}. It is recommended to include the following data^{xv}:

- Description of the methodology and broad consultation process followed in preparing the national report;
- Information on the normative and institutional human rights framework, including constitution, legislation, policies, and institutions;
- Information on implementation of international human rights obligations, national legislation and voluntary commitments; as well as national human rights institutions, public awareness of human rights and cooperation with human rights mechanisms;
- Information on achievements and best practice, as well as challenges and constraints;
- Key national priorities and initiatives to overcome challenges and constraints and improve the human rights situation;
- Expectations for capacity-building and requests for technical assistance.

The national report must be ready in time to ensure its distribution simultaneously in the six UN official languages six weeks prior to the review in the UPR Working Group. However, it must be noted that the UN's "six-week rule" for document distribution has almost never been respected for the UPR of the first five sessions, that the national reports were never available in time and even on the day of the review in the six official languages.

States are also encouraged to prepare the information through a broad consultation process at the national level with all relevant stakeholders.^{xvi} In this regard, several countries adopted various approaches.

Compilation of United Nations Information

Under the provisions of resolution 5/1, the review is also based on "a compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR) of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents, which shall not exceed 10 pages."^{xvii}

In this report, the OHCHR did not mention any issue related to religious freedom, intolerance and discrimination.

Summary of Stakeholders' Information

According to the provisions of resolution 5/1, the review is also based on “Additional, credible and reliable information provided by other relevant stakeholders to the universal periodic review which should also be taken into consideration by the Council in the review. The Office of the High Commissioner for Human Rights will prepare a summary of such information which shall not exceed 10 pages.”^{xxviii} The written submissions are to be sent to the OHCHR^{xxix}. The full texts can be consulted on the website of a non-profit and non-governmental organization (NGO) based in Geneva, which monitors the activities of the UPR mechanism^{xx}.

Interactive Dialogue and Outcome of the Review

The interactive dialogue is conducted in the mode of a public hearing of three hours. The states concerned can use up to one hour for its presentation^{xxxi} but generally use less time. Up to now, most of the States under review have been represented by high level delegates and large delegation of experts from various ministries^{xxxii} which seems to signify that they take the process seriously. The Member States must previously register to take the floor and the list is shown on a screen in the meeting hall. The State under review usually reacts to the comments and questions on two occasions: in the middle and at the end of the dialogue.

The interactive dialogue is accessible for the public via webcasting^{xxxiii} or personal assistance after being accredited to the Human Rights Council.

According to the provisions of resolution 5/1, NGOs may only attend and observe the proceedings of the Working Group but cannot intervene during this phase of the review.^{xxxiv}

The format of the outcome of the review is a report consisting of a summary of the proceedings of the review process: the views expressed by Member States, the Observers and the State under review, conclusions and/or recommendations, and the voluntary commitments of the State concerned.^{xxxv} The outcome may also include, inter alia, an assessment undertaken of the human rights situation in the State under review; sharing of best practices; the provision of technical assistance and capacity-building and voluntary pledges and commitments made by the State under review.^{xxxvi} The report is elaborated by the Troika and the State under review.

The State under review has the right to delay its reaction to some recommendations and to provide responses in due time before the outcome report is presented to the Human Rights Council for adoption. It can also refuse to endorse a number of them without any limitations.^{xxxvii} However, all recommendations, whether accepted or not, are duly noted in the outcome document.

During a two-week period after adoption of the outcome of the review by the Working Group, editorial changes (only) can be submitted by States to the record of the proceedings. These meetings are not webcast and are not open.

Adoption of the Outcome of the Review by the Human Rights Council

The outcome of the review is to be given final approval by the Human Rights Council meeting in plenary session under Item 6 (United Nations, General Assembly A/HRC/OM/L.1 Presidential Statement at the opening of the Meeting for the Selection of the UPR Troikas – 28 February 2008).

The Council meets in plenary session to consider the reports on several reviewed States previously adopted by the Working Group.

The process provides for a one-hour interactive dialogue to make general comments before the final adoption of the reports. Twenty minutes are granted to each of the three following categories of actors: the state concerned, the Member and Observer States and the UN institutions, and last but not least the NGOs. Speaking time for Member States is maximally 3 minutes, for others 2 minutes. If there are more requests for the floor than time is available, which is usually the case, only 8 to 10 stakeholders can make a statement after the State under review.^{xxviii}

The only comments permitted up to now concern laws, recommendations and questions in the report. NGOs are often interrupted by the State under review and others on the alleged ground that their comments are out of place. The admissibility of comments under challenge is determined by the President of the Council or his designate.

At this stage, however, the report of the Working Group is already finalized and therefore interventions by NGOs remain without any effect.

The UPR Working Group report is formally adopted by the Council.

The UPR in Practice with China

By being applicable to all UN Member States, without any distinction and on an equal basis, the UPR is intended to address one of the main criticisms raised at the Council's predecessor, the Commission on Human Rights, namely that its focus on certain countries and not on others was selective and based on double standards. Indeed, the Commission considered only a small number of countries at its annual sessions and shied away from addressing some of the most pressing situations, often for political reasons. Now, the UPR offers an opportunity to address situations and to challenge the human rights record of any country that were never the subject of action by the late Commission on Human Rights.

The whole UPR process provides an invaluable amount of information about the human rights situation in all the UN Member States that can be used by NGOs and other stakeholders to better focus their advocacy strategies, their agendas and their monitoring activities in the future.

The process can also have a positive effect at the national level, especially if the media have a sufficient space of freedom to largely echo the commitments that still need to be fulfilled.

The practices developed throughout the various sessions of the Universal Periodic Review have however been varied so that it is still difficult to provide a clear critical appraisal of the process at this stage.

The main reproach that can be made to the UPR in its present form is that independent voices such as human rights NGOs and other stakeholders (victims, human rights defenders, and so on), national human rights institutions, UN experts and UN Special Rapporteurs are muted, cannot participate in the interactive dialogue and influence the final report, especially through some contribution to the recommendations.

Consultation of the stakeholders by the State to be reviewed

Some States have adopted a constructive approach with regard to the consultation of domestic human rights NGOs during the drafting the national report.

An example of best practice is Guatemala. The Government of this State worked together with the OHCHR country office in consulting members of civil society and training them on how they could participate in the UPR process.

Another positive example is Tonga where the national report was publicly endorsed by its civil society as a whole.

The practice adopted by Switzerland, which published the draft national report on the website of the foreign ministry and invited civil society and citizens as a whole to comment on it is also worth commending.

However, a number of States did not follow the recommendation of the institution-building package of the Council and failed to convene national consultations prior to finishing the national report. In other cases, such consultations were organized but were reportedly not meaningful.

Another problem was that in some countries these consultations were limited only to registered NGOs. This can pose serious problems in States which apply strict criteria for the registration of NGOs. In certain cases participation of representatives of unregistered NGOs in the national consultation process was denied even when such representatives asked to be considered and included as individual human rights defenders.

Concerning the consultations of NGOs, the national report of China says that “Oral and written consultations were held with nearly 20 non-governmental organizations (NGOs) and academic institutions.” It must however be noted that the list of NGOs published in Annex II^{xxix} of the National Report did not comprise any faith-based organization of any religious denomination or stakeholders or independent human rights NGOs.

In Macao, the draft report is said to have been made available for comments and proposals at the Macao Special Administrative Region Government website.

In Hong Kong, the Government of this Special Administrative Region (HKSAR) is said to have “conducted an exercise in September 2008 to consult the public. The HKSAR Government published a consultation

document which contained the background and objectives of the review, a proposed outline of the report and an appeal to the public for comments. This document was sent to a broad spectrum of the community, including the Legislative Council, relevant non-governmental organizations (NGOs), interested members of the public and the media, and was distributed through the District Offices and on the Internet. During the consultation period, the HKSAR Government also collected views from representatives of NGOs at the Human Rights Forum. The HKSAR Government carefully considered all the views and comments received.”

As far as Macao and Hong Kong are concerned, no further details are however provided about the number of NGOs’ contributions and their contents, the names of the stakeholders and the processing of the collected data.

It is also to be noted that Beijing has tried to give the impression that the consultation was open, transparent and democratic consultation in the two territorial entities that joined the People’s Republic of China in the last decade.

National report

Under the item “Freedom of religious belief”, China declared in its report:

“55. China is a country with a great diversity of religious beliefs. The main religions are Buddhism, Taoism, Islam, Catholicism and Protestantism.

56. The Constitution expressly provides that citizens enjoy freedom to believe or not to believe in any religion. No State organ, organization or individual may force citizens to believe or not to believe in any religion, nor may they discriminate against citizens who believe or do not believe in any religion. The Criminal Law stipulates that “a State official who illegally deprives a citizen of his or her freedom of religious belief or who infringes the customs or habits of ethnic minorities shall, if the case is serious, be sentenced to imprisonment of two years or less or placed under criminal detention”. In 2005, the Regulations on Religious Affairs were promulgated by the State Council to further safeguard the legitimate rights and interests of religious communities, regulate the administrative conduct of government departments and promote inter-religious and social harmony.

57. According to incomplete statistics, there are more than 100 million followers of different faiths in China, and the religious population is steadily increasing. For example, the number of Protestants is nearly 23 times greater than it was in the early years of the People’s Republic, and the number of clergy has doubled over the last decade. The number of Muslims professing the Islamic faith has increased from 18 million in 1997 to 21 million.

58. There are over 3,000 religious organizations or groups established independently by various religions. These groups select and ordain their leaders and governing bodies in accordance with their own regulations; they independently run their religious affairs, publish scriptural texts, operate social services and engage in friendly exchanges with religious communities in other countries. Since 1980, some 50 million copies of the Bible have been printed and distributed in China.”

The information contained in this official statement is not consistent with the reality in the field as religious organizations are not independent from the state but are under the control of the Communist Party and they cannot ordain their religious leaders without the approval of their respective government-affiliated association that monitors and supervises their activities - the *Chinese Buddhist Association*, the *Catholic Patriotic Association*, the *Protestant Three-Self Patriotic Movement*, the *Chinese Islamic Association* and the *Chinese Taoist Association*.

Compilation of United Nations Information

In the compilation^{xxx}, the Office of the High Commissioner for Human Rights (OHCHR) rightly highlighted various aspects of the lack of freedom of several religious groups.

Under the item “Right to life, liberty and security of the person”, the OHCHR said: “CAT^{xxxi} was greatly concerned by the allegations of targeted torture, ill-treatment and disappearances directed against national, ethnic, religious minorities and other vulnerable groups in China, among them Tibetans, Uighurs and Falun Gong practitioners.”

In the section “Freedom of religion or belief”, the OHCHR declared:

“26. The Special Rapporteur on freedom of religion or belief has transmitted to the Government a number of allegations concerning human rights violations against persons of the Christian faith, and against Falun Gong practitioners, including arrests, detention, torture, and re-education through labour. CRC in 2005 was concerned at reports that children of families practising their religion, notably the Falun Gong, are subject to harassment, threats and other negative actions, including re-education through labour. China stated that it fully respects and protect citizen’s freedom of religion in accordance with the law, but that “Falun Gong is neither a religion nor a spiritual movement; rather it is an evil cult against humanity, science and society.”

29. (...) “The Special Rapporteur on torture recommended that all persons who have been sentenced for the peaceful exercise of freedom of speech, assembly, association and religion, on the basis of vaguely defined political crimes, both before and after the 1997 reform of the Criminal Law, should be released and that political crimes leaving large discretion to law enforcement and prosecution authorities such as “endangering national security”, should be abolished.”

Summary of stakeholders’ information

The submissions of NGOs are summarized by Human Rights Council writers. Due to limitations on length, rather little usually gets in the report. The amount that is included also depends on the number of submissions that are sent. NGOs often complain that their 5-page reports are reduced to a few lines or do not reflect their priorities.

The States under review can totally ignore the reports of the NGOs and fail to address major issues on purpose. Due to the non-availability of this document in all the official languages of the UN in due time or at all, important issues may not be brought to the attention of the Member States and Observers and therefore not be addressed during the interactive dialogue and in the recommendations.

In the case of China, 48 stakeholders sent a submission^{xxxii}. Among them, 6 exclusively dealt with religious freedom and 4 partly^{xxxiii}. The summary of the submissions quoted 6 of them^{xxxiv} and covered hereby the main issues related to freedom of religion as well as the particularly targeted groups: Tibetan Buddhists, Uyghur Muslims, Falun Gong practitioners, Protestants and Catholics.

Interactive dialogue

On the one hand a State that would never find its human rights record being discussed at the Council may now have to face certain difficult questions before its peers. On the other hand, 'friendly states' have the ability to collectively present an image that is not reflective of the human rights situation on the ground. Although there has been a clear move away from the Council practice of issuing statements by regional or other groups of States in favor of individual interventions by States, many States have applied different standards of scrutiny to States they have a regional or organizational association with and political alliances have been built up to shield some States from too close or too critical scrutiny.

On 6 February 2009, UN Watch published a report entitled "Mutual Praise Society"^{xxxv} analyzing and evaluating more than 300 UPR interventions made by a number of states participating in the UPR mechanism. Out of 55 countries examined—including all 47 members of the UN Human Rights Council—only 19 had average scores indicating that they contributed positively. Tragically, a majority of 32 out of 55 countries acted as a mutual praise society, misusing the process in order to legitimize human rights abusers, instead of holding them to account. The China was one of them.

Unashamedly, several States applaud the achievements of countries with a poor human record like Tunisia. This form of instrumentalization organized by several UN Member States^{xxxvi}, especially visible during the fourth session in February 2009, constitutes a danger to the future of the efficiency of the new mechanism. Embassies' staff sometimes had to queue for two hours before the opening of the registration desk for the interventions they had planned to make during the interactive dialogue. During the fourth session, at the review of Cuba, 104 Member States had registered to take the floor, 115 were "encouraged" by China to do the same. Only 60 delegations could be heard and the recommendations of 55 countries had therefore no chance to be reflected in the outcome of the review. Among the actors of the mutual praise society, "Saudi Arabia appreciated China's valuable information and clear statements and its efforts to promote and protect human rights" while "Uzbekistan welcomed the efforts made in the area of protecting and promoting all human rights, including political, civil, social and cultural rights, and also the right to development."

The issues raised by the stakeholders are not always adequately – and sometimes not at all - addressed at all stages of the review, and in particular during the interactive dialogue, the most crucial part of the whole process. If Member States participating in the interactive dialogue fail to address an issue orally, it will not be reflected in the outcome document. Consequently it will not be mentioned in the recommendations and it will not be part of the possible commitments of the country under review.

Statements of UN Member States on freedom of religion or belief

Seven states highlighted in various ways China's failure to protect freedom of religion or belief. Their statements were summarized in the draft UPR report as follows:

Australia "expressed concern that Chinese officials continue to repress religious activities considered to be outside the State-controlled religious system."

New Zealand "noted with concern ongoing restrictions on freedom of religion."

Switzerland “recommended that the Chinese authorities respect the fundamental rights of the ethnic minorities, notably freedom of religion and movement.”

Germany “recommended that China guarantee all citizens of China, including its minority communities and religions, the exercise of religious freedom, freedom of belief and the freedom of worshipping in private.”

Italy “recommended that China simplify requirements for official approval of religious practices in order to allow more individuals to exercise their freedom of religion and belief and to respect the religious rights of minorities.”

In its statement, **Canada** expressed deep concerns “about reports of arbitrary detention of ethnic minorities members, including Tibetans, Uyghurs and Mongols, as well as religious believers, including Falun Gong practitioners, without information about their charges, their location and wellbeing.” However, while mentioning Canada’s intervention, the drafters of the UPR report omitted the words “Tibetans, Uyghurs, Mongols and Falun Gong practitioners.”

In a set of written questions submitted in advance to China, the **UK** stressed “it is important that minority religious, cultural and language rights are properly protected, including in Tibet and Xinjiang” and asked China what steps it was planning to take “to remove restrictions on religious practice, and protect minority rights.” The UPR report focused on the human rights situation in Tibet, “including religious rights”, without any further detail.

Right of reply of China

China reacted on two occasions to the criticisms coming from these by countries. First, it said that “it would never allow torture to be used on ethnic groups, religious believers or other groups.” Later on, it insisted that “the State respects the habits and customs of religious beliefs of minorities, and prohibits speeches and actions that instigate ethnic hatred and religious discrimination” and finished with a longer statement illustrated with statistics: “On the matter of religious beliefs the delegation noted that China has over 100 million believers, including more than 21 million Muslims, 16 million Christians, 5.5 million Catholics, with 300,000 clergy men for various religions and 3,000 religious bodies, 100,000 places of worship. China prohibits speeches and acts which instigate religious hatred and discrimination. In accordance with regulations on registration of social organizations, all social organizations should register with bodies of civil affairs, including religious organizations. But the registration requirements are minimum. The ‘family gatherings’ of Christians are not required to be registered.”

Report and recommendations

Many recommendations are addressed to some States, and just a few to others. A certain degree of disparity is also to be noted in their content: some are very precise while others are so vague and general in nature that they are difficult to apply in practice and cannot be realistically measured. This was the case for a number of recommendations concerning China.

Rejected recommendations may pose a problem in cases where the same or similar ones were previously made by treaty bodies or special procedures mandate holders. China rejected almost all the

recommendations aiming at promoting democracy and human rights made by ALL the EU member states and by Argentina, Australia, Brazil, Mexico, New Zealand and Switzerland although they were consistent with those of the treaty bodies and the special procedures.

Some recommendations were shocking, such as the one of Egypt supporting China in the implementation of death penalty or the one of Cuba which encouraged China to “avoid the impunity for people who are qualifying themselves as human rights defenders with the objective of attacking the interests of the state and the people of China.”

The recommendation of Iran was also disturbing as it encouraged China to strengthen Internet governance to make sure the contents that incite defamation of religion are prohibited.

Moreover, some issues that are raised during the interactive dialogue may not even be thoroughly or at all reviewed by the process^{xxxvii}. Most importantly, they may not be comprehensively or at all reflected in the recommendations although they have been dealt with during the interactive debate^{xxxviii}. In the case of China, the words “Tibetans, Buddhists, Uyghurs, Muslims, Catholics, Protestants, Falun Gong, ethnic minorities, religious minorities” were totally banned from the report adopted by the Working Group at its meeting held on 11 February 2009 although they were mentioned during the interactive debate. Nor was there any recommendation addressing failures to comply with international standards regarding freedom of religion or belief.

Adoption of the report by the Human Rights Council

Given the short time scheduled for each reviewed country, a rather small number of NGOs are given an opportunity to deliver short statements.

Moreover, NGO comments have been repeatedly interrupted by the State under review and other Member States for allegedly going beyond the permitted scope of such statements.

In the plenary sessions of the first two UPR groups, the NGOs could not use their full 20 minutes because of the interruptions by states demanding points of order and lack of timely availability of outcome documents to NGOs in all UN languages.

At this stage, however, interventions by NGOs remain without any effect as the report of the Working Group cannot be amended.

The report of the Working Group concerning China was therefore adopted by the Human Rights Council without any change.

China has finally managed to eclipse the situation of Tibetan Buddhists, Muslim Uyghurs, Falun Gong practitioners, unregistered Protestant communities and Catholics faithful to Rome, and to abstain from curbing its repressive policies towards all these religious groups.

On the very day of the adoption of the UPR report by the Working Group, China claimed "victory." Foreign Ministry spokeswoman Jiang Yu said in a press conference that most countries had endorsed China's rights record - and those that did not were simply politicizing the process.

Conclusions

This analysis of the Universal Periodic Review of China clearly shows that religious freedom issues were sufficiently highlighted in the Compilation of the UN Information by the Office of the High Commissioner for Human Rights and in the NGOs' submissions. They were also raised with energy by a number of Member States during the interactive dialogue. Their concerns however failed to be duly reflected in the written summary of their interventions and they were totally evacuated from the recommendations. This manipulation was only possible because the troika rapporteurs cannot draft their report and the recommendations emanating from the Working Group in full independence but have to work with the country under review, in this case China.

The gap between the content of the UPR report and its recommendations on the one hand, and the content of the UPR working documents and debates on the other hand has also been observed in other UPR sessions.

The Universal Periodic Review of China is now over and Beijing's human rights policy will not be examined again until 2013 in this framework. By then the rules and practices will have to be amended. However, several other mechanisms are still available at the UN to promote a religious freedom agenda: the treaty bodies and the special procedures. Such opportunities should not be missed and revised strategies should be crafted in the light of the UPR experience. The Office of the High Commissioner for Human Rights, Special Rapporteurs, a number of diplomatic missions with the UN are the key actors that religious freedom advocates should target in priority with the timely distribution of accurate information and through personal demarches.

Recommendations

In the light of its experience of the UPR mechanism garnered through the attendance of several sessions, *Human Rights Without Frontiers* proposes recommendations to a number of actors: the States under review, the UPR Member States, the Troikas, the Human Rights Council, the Office of the High Commissioner for Human Rights, the Special Procedure Mandate Holders, NGOs and other stakeholders. Although the UPR examines the human rights records of all 192 UN Member States only once every four years and its rules cannot be reviewed until 2011, a number of recommendations aiming at improving the use of the mechanism might already be implemented.

To the States under review

- To share information about the UPR mechanism among civil society organizations and human rights defenders and encourage their participation;
- To organize national consultations prior to the finalization of the national report;
- To publicize an open invitation to all interested and relevant stakeholders, including local human rights defenders, domestic civil society organizations whether registered or not, but also foreign human rights NGOs covering the issue in the State under review;
- To adequately reflect the views of civil society in the national report;
- To address the issues raised in the submissions of the stakeholders and in the compilation of UN information;
- To allow the possibility of side events during UPR sessions, following the example of the lunchtime briefings of the treaty bodies;

- To ensure effective follow up on the national level by consulting civil society and human rights defenders about the problems identified and the recommendations put forward during the UPR process;
- To organize annual follow-up meetings until the next cycle of reviews to assess the status of implementation of the UPR recommendations along with those of other human rights mechanisms, such as the treaty bodies, special procedures and regional mechanisms.

To the UPR Member States

- To participate meaningfully and constructively in the UPR process;
- Not to allow bloc politics to override their obligation to conduct UPR reviews in an objective, non-selective and non-politicized manner;
- To put pertinent and topical questions;
- To provide concrete and actionable recommendations;
- To propose good practices and detailed policies;
- To coordinate their participation within the Working Group in order to consistently prepare questions and points for discussion that include a wide range of human rights issues while avoiding duplication.

To the Troika

- To address the issues raised in NGOs' submissions and in the compilation of UN documents that were omitted by the State under review and by the other actors during the interactive dialogue;
- To include in the UPR outcome report an analysis of the compilations of the UN information and the recommendations of the stakeholders as without such content, valuable information goes completely unmentioned in the outcome of the review;
- To draft more specific and operational recommendations in order to facilitate the assessment of their implementation or lack of it;
- To show sufficient independence and determination when co-drafting the report and the recommendations with the country under review.

To the Human Rights Council

To amend the provisions regarding the participation of NGOs during the five-year review foreseen for 2011 so as

- to allow NGOs to speak during the interactive dialogue at the Working Group stage of the UPR;
- to include the recommendations of the NGOs in the outcome of the review;

To allow the Troika rapporteurs to draft the report and the recommendations of the Working Group without the country under review.

To the OHCHR

- To post the full texts of the submissions of the stakeholders on its website on the page of the State under review, while highlighting their recommendations (Good practice of the OSCE/ODIHR at its annual HDIM in Warsaw);
- To post all the UPR documents on its website in due time and in all the UN official languages;
- To give more guidance and training, preferably in the form of technical assistance or information notes, on how best to structure UPR submissions;
- To create a model questionnaire which would ensure that OHCHR receives information for NGOs in a way that can be best processed.

To the special procedure mandate holders

- To make use of the recommendations stemming from the UPR process and to raise them with countries concerned during country visits or examinations of reports.

To the NGOs and other stakeholders

- To use the UPR mechanism despite its limitations;
- to participate in genuine dialogues with their respective Governments before, throughout and after the review
- To build up coalitions around specific issues and co-sign joint submissions (10 pages) in order to avoid duplication;
- To give priority to recommendations in their submissions;
- To channel priority issues and dossiers to their respective diplomatic mission in Geneva through their Ministry of Foreign Affairs;
- To organize roundtables or working luncheons with human rights officers of the diplomatic missions with the UN in Geneva two months before the UPR session in order to convince them to raise a number of issues during the UPR interactive debate so that they be reflected in the recommendations;
- To attend or to follow the UPR live webcast and to react appropriately with a press release, a press conference, interventions in the media, etc.;
- To denounce publicly the rejection of important recommendations by the States under review;
- To campaign for a revision of the UPR rules so that they can participate in the interactive dialogue and/or have their recommendations included in the outcome of the review.

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The author wrote many articles in university magazines about relations between state and religions. His most recent publications are:

European Perspectives on Interfaith Cooperation for Peace and Human Rights, pp 24-27, in Interreligious Cooperation and the Promotion of Human Rights and Peace (2009)

Religious Freedom: European Trends, pp 28-33, in *Religious Freedom in the World*, ed. by Paul A. Marshall. Rowman & Littlefield Publishers in cooperation with the Center for Religious Freedom at the Hudson Institute (2008)

Interactions between public powers, communities of faith or belief, and society: A critical and constructive look at religious intolerance in France and in Belgium (in Russian) pp 19-24, in *Religia in Pravo* (Journal Religion and Law), Nr 3/ 2008, ed. Academy of Sciences, Moscow (2008)

Non-State Actors and Religious Freedom in Europe, pp 311-330, in *Non-State Actors in the Human Rights Universe*, ed. by George Andreopoulos, Zehra F. Kabasakal Arat and Peter Juviler, Kumarian Press, 1294 Blue Hills Avenue Bloomfield, CT 06002, USA (2006)

Footnote

The observations and conclusions made in this paper are based on the attendance by the author of the review of several countries during the second round of the UPR in Geneva in May 2008 (France, Romania and Ukraine) and the fourth round in February 2009 (Bangladesh, China and Cuba) and by the evaluation of the written documents of several states.

ⁱ The States to be reviewed are chosen by regional groups through the drawing of lots to ensure full respect for equitable geographic distribution. Alphabetical order is then applied. On 21 September 2007, the Human Rights Council adopted a calendar detailing the order in which the 192 UN Member States would be considered during the first four-year cycle of the UPR. See the calendar of all the sessions of the first cycle at <http://www.ohchr.org/EN/HRBodies/UPR/Documents/uprlist.pdf> and <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRSessions.aspx> (accessed on 28 March 2009).

ⁱⁱ See full text at <http://daccessdds.un.org/doc/UNDOC/GEN/N05/502/66/PDF/N0550266.pdf?OpenElement> (accessed on 28 March 2009)

ⁱⁱⁱ Full text available from: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx>

^{iv} The 47 Members of the Human Rights Council are to be elected by a majority of 97. The seats are shared as follows by geographical regions:

- African States(4 seats)
- Asian States (4 seats)
- Eastern European States (2 seats)
- Latin American & Caribbean States (2 seats)
- Western European and Other States (2 seats)

The UPR Working Group is subjected to the same geographic distribution requirements. After serving two consecutive years, members are not re-eligible for election for one year. Any member that commits gross and systematic violations of human rights can be suspended by the General Assembly by a 2/3 majority (General Assembly Resolution 60/251, para 8).

^v The President recognizes speakers, rules on the propriety and permissibility of contributions and sets limits on speakers and such interruptions as points of order.

^{vi} The Working Group sessions take place at the UN Office in Geneva at the Palais des Nations.

vii Three countries are chosen from Human Rights Council members of the regional groups: Asia, Africa, Latin America and the Caribbean Region. They are chosen by lot in two stages. The first stage concerns the regional groups. The second stage is drawn by the State under review itself: one Member State in each region. The State under review has the right to request that one of the Troika members should stem from the same regional group. It can also reject one of them. The members chosen for the Troika have the right to deny being member of it: i.e. Pakistan asked to withdraw from the Troika for the review of India. The composition of the Troika is different for each State under review.

viii The three reports of each each country are available at (accessed on 28 March 2009)
<http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>

ix See information note on NGOs' submissions at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NoteNGO.aspx>

x All written questions are to be transmitted not later than 10 days before the hearing.

xi The delegations of the Member States of the UN Human Rights Council are normally allotted 3 minutes and other UN Member States 2 minutes. However, due to the high number of speakers, time is often reduced to 2 minutes for all Member States without any distinction.

xii France took the initiative to add commitments to the outcome of the review. See http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/FR/A_HRC_8_47_France_F.pdf (accessed on 28 March 2009)

xiii For the first four sessions, China has certainly the worst record in this regard as it rejected almost all the recommendations aiming at promoting democracy and human rights made by **ALL** the EU member states and by Argentina, Australia, Brazil, Mexico, New Zealand, Switzerland.

xiv In April 2008, South Africa presented its national report only at the moment of the interactive dialogue.

xv See: Amnesty International/ Questions and Answers on the Universal Periodic Review of the Human Rights Council (October 2007)

xvi Human Rights Council resolution 5/1 of June 18 2007, Annex, para. 15 (a)

xvii Ibid., para.15 (b)

xviii Ibid., para.15 (c)

xix Details on the format and deadlines are available at
<http://www.ohchr.org/EN/HRBodies/UPR/Pages/NoteNGO.aspx>

xx <http://www.upr-info.org>

xxi A webcast of the proceedings is broadcast live on the internet. The webcast archives can be accessed at
<http://www.ohchr.org/EN/HRBodies/UPR/Pages/NoteNGO.aspx>

xxii Bahrain's and Poland's delegations each consisted of 27 members.

^{xxiii} The webcast is a useful tool for NGOs which cannot afford to travel to Geneva. The webcast archives are accessible through the page of the concerned country on the website of the UN Office of the High Commissioner for Human Rights <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>. These archives are very useful for researchers who want to check the accuracy of the written summaries of the interventions of the various Member States with regard to their full statements and to make deeper analyses.

^{xxiv} Ibid., para. 18 (c)

^{xxv} Ibid., para. 26

^{xxvi} Ibid., para. 27

^{xxvii} China rejected almost all the recommendations made by ALL the EU member states and by Argentina, Australia, Brazil, Mexico, New Zealand, Switzerland.

In para. 117 of the Conclusions and Recommendations concerning its review, China made the following reservations: “The recommendations noted in the report in paragraphs 27(b),(c),(d),(e),(f), (g), 28 (a), (c), (d), (e), (f), (g), (h), 30(b),(c), 31, 38, 42, 43(a),(b),(e),(f),(g),(h) 56, 79(a), (c), 81(b), 82, 83(a),(c),(d),(e), (g), 84(a), 85(b),86(b),(e), 92(b),(c),(d),(e),(f),(g), (h), 95(b), (c), (d), 96, 97 did not enjoy the support of China.”

^{xxviii} During the first adoption process in June 2008 (8th session of the Human Rights Council), no governmental stakeholder took the floor concerning Finland and Argentina while the adoption process of the reports on Pakistan and Sri Lanka raised the interest of more than 20 states each.

^{xxix} List of NGOs

- All-China Women’s Federation
- All-China Federation of Trade Unions
- China Disabled Persons’ Federation
- China Society for Human Rights Studies
- United Nations Association of China
- Law Institute of the Chinese Academy of Social Sciences
- China NGO Network for International Exchanges
- Red Cross Society of China
- China Family Planning Association
- China Centre of Tibetan Studies
- China Care Association
- China Ethnic Minority Association for International Exchanges
- China Association of Women Entrepreneurs
- China Glory Charity Programme Promotion Association
- China Education Association for International Exchange

^{xxx} See http://www.upr-info.org/IMG/pdf/A_HRC_WG6_4_CHN_2_E.pdf (Accessed on 12 April 2009)

^{xxxi} CAT: Committee Against Torture

^{xxxii} See the full texts of the submissions at <http://www.upr-info.org/Documents-for-the-review,459.html> (Accessed on 10 April 2009)

^{xxxiii} The submissions of The Becket Fund for Religious Liberty, China Care and Compassion Society, The European Centre for Law and Justice, The Falun Gong Human Rights Working Group, Human Rights Without Frontiers Int’l,

The Islamic Human Rights Commission were totally devoted to religious freedom issues. Those of Human Rights Watch, The Tibetan UPR Forum, the World Uyghur Congress and the UNPO covered some religious freedom issues.

^{xxxiv} See http://www.upr-info.org/IMG/pdf/A_HRC_WG6_4_CHN_3_E.pdf (Accessed on 11 April 2009)

^{xxxv} **Canada** was the only country that ranked as **VERY CONSTRUCTIVE**. It was the most consistent in vigorously challenging countries on specific human rights issues, with strong interventions that support the UPR's purpose of reminding countries of their responsibilities in order to help victims and address human rights violations wherever they occur

The report also demonstrates that bloc affiliations played an important role in determining how countries reviewed each other. For example, as a rule, members of the 57-strong Organization of the Islamic Conference strongly praised each other's records. As a result, some of the poorest overall reviews were those performed on Algeria, Bahrain, Morocco and Tunisia, closely followed by Pakistan and Uzbekistan.

See the full report at <http://www.unwatch.org/upr>

^{xxxvi} China, Cuba and other countries have mobilized 'friendly states' to applaud their own human rights record so that 'dissenting and more critical notes' coming from EU Member States and other democracies remained almost unheard in the organized concert of praises. No doubt the praises will be reciprocal in the future.

^{xxxvii} France's policy concerning so-called cultish misbehaviors was not reflected in the outcome of the review because it had not been raised during the interactive dialogue. While the issue was absent from France's national report, it had been highlighted both by NGOs and UN Special Rapporteur on Freedom of Religion or Belief Asma Jahangir.

^{xxxviii} Case of Algeria: In the Report of the UN Office of the High Commissioner for Human Rights (OHCHR), the Special Rapporteur on Freedom of Religion or Belief pointed at the criminalization of the conversion of a Muslim to another religion and to the distribution of any document designed to "shake the faith of a Muslim":

The European Center for Law and Justice was the only NGO to express concerns about religious freedom in Algeria through a submission but during the UPR interactive debate, the Holy See, Belgium and Brazil questioned the Algerian delegation about its controversial anti-conversion law. The representative of the Holy See was quoted as saying *"The Holy See noted that the Special Rapporteur on freedom of religion or belief raised concerns about the law adopted in 2006 on the practice of religions other than Islam, which limited the practice of other religions. It asked how the Government reconciles this law with the constitutional guarantee of freedom of belief. It further asked how the educational system treats the issue of human rights in general, the right of religious freedom in particular, and the increased pluralism of society. The Holy See recommended continuing a dialogue with minority religions."*

The problem posed by the anti-proselytism law was totally evacuated from the recommendations by the then Troika (Uruguay, Philippines and Senegal) which summed up the proposal of the Holy See as a proposal to "continue dialogue with minority religions" and failed to reflect the concerns of Belgium and Brazil.

Human Rights Without Frontiers International (HRWF Int'l) is a non-governmental organization with an objective to promote democracy, the rule of law and human rights in a global perspective. HRWF Int'l has branches in Belgium, China, Nepal, Bhutan and cooperates with associate member organizations in Armenia, Azerbaijan, Bulgaria, Georgia, Iraq, Japan, Russia, etc.

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