

THE U.N. HUMAN RIGHTS COUNCIL: WHAT WOULD ELEANOR ROOSEVELT SAY?

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The prominent role played by Mrs. Roosevelt in the creation of the United Nations’ (U.N.) human rights apparatus is described by William vanden Heuvel in the Fall issue of *The InterDependent* (Vol. 6 No. 3).¹ After quoting Henry Kissinger as styling her “one of the great human beings of our time,” vanden Heuvel calls her “tough and resolute” as well as “fearless in speaking truth to power.”² He recalls that she was chosen by acclamation to chair the committee to establish the Commission on Human Rights.³ “At 3 a.m. on December 10 [1948] the [Universal] Declaration [of Human Rights] was adopted without dissent and with a spontaneous ovation for the woman whose work brought

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1. See William vanden Heuvel, *Eleanor Roosevelt and Her Greatest Achievement: The Universal Declaration of Human Rights*, THE INTERDEPENDENT, Fall 2008, at 29.
 2. *Id.*
 3. *Id.*

forth a Magna Carta for the people of every nation,” said the former Deputy U.S. Ambassador to the U.N.⁴

Now we must ponder what Mrs. Roosevelt would say at the spectacle of a U.S. Administration declining for three years to run for a seat on the present incarnation of the Commission, the Human Rights Council. We are here today to take a careful look at the Council, and see if we think it is in our country’s interest to sit on the sidelines instead of running for a seat. The United States does participate actively as an Observer, which must cause amusement and some astonishment.

As we give our views on the Council, the three of us panelists may seem like the legendary blind persons describing an elephant, each one touching a particular part of the animal’s anatomy. One said the elephant was like a tree trunk, another like a large snake, and a third said an elephant is like a whisk broom.

For me, emphasizing as I will shortly the Council’s innovative Universal Periodic Review (UPR) is like a breath of fresh air. UPR is genuinely innovative, positive, and encouraging. Nothing like it has gone before, not in Mrs. Roosevelt’s time nor any time since at the U.N.

In the twenty-five of the annual sessions of the U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities that I participated in, I never saw an occasion when, in an organized and systematic fashion, a country bared its human rights record and then listened respectfully to polite but probing questions from other countries. Nor did I observe anything like this when serving on the U.S. Delegation to the Commission on Human Rights.

The prevailing gentility in the UPR process may result from the fact that each country is itself scrutinized every four years. Some countries that have probed a bit sharply may regret it when their turn comes.⁵ Others will go easy in a spirit of mutual back-scratching. The Netherlands

4. *Id.*

5. The United States of America asked about steps taken to improve conditions in the pre-trial detention facilities and to solve problems resulting from overcrowding and inadequate medical care. It asked what Ukraine was doing to comply with its laws regarding the length of pre-trial detention. The United States recommended that the Government vigorously investigate and prosecute prison and police officials guilty of the mistreatment of detainees and prisoners. In addition, it recommended to the Government to change its domestic laws to make confessions obtained under torture inadmissible as evidence in criminal court proceedings against the person who confessed.

U.N. Human Rights Council, 8th Sess., Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review, Netherlands*, ¶ 33, U.N. Doc. A/HRC/8/45 (Jun. 3, 2008). The U.S. turn will come in 2010.

noted that the major human rights issues in every state under review had been raised in a constructive manner, showing that the intention of the General Assembly that the universal periodic review should be a cooperative mechanism based on interactive dialogue could actually work. Secondly, the Netherlands was pleased to see so many Member States actively participating in the process. Thirdly, it experienced an increasing openness and transparency as the sessions evolve. For the moment, the Netherlands considered the review a 'work in progress' that would ultimately contribute to the improvement of the human rights situation in all countries.⁶

The Minister for Foreign Affairs of Tonga

welcomed the advent of the UPR process as a means of ultimately improving the state of promoting and protecting human rights at a national level, and shared the view of other Member States that the UPR process is one that should ensure complementarity with existing mechanisms so as to avoid any duplication. His Majesty's Government is therefore committed to the success of this UPR process and more broadly to the advance of the discourse on human rights at the international level.⁷

I argue here that UPR with its variety of documentation facilitates comparative study of domestic human rights laws and procedures. Here are some examples of material suitable for comparative study, leading to better understanding and perhaps even adaptation, of other countries' experiences.

I. DEATH PENALTY

The Delegation explained that the majority of the Japanese people considers the death penalty to be unavoidable in case of extremely vicious crimes, and in view of the current situation in which heinous crimes such as mass murder and abduction-murder continue to take place, the Government believes that the application of the death penalty is unavoidable, and, therefore the abolition of the death penalty is inappropriate.⁸

6. U.N. Human Rights Council, 8th Sess., Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review, Netherlands*, ¶ 8, U.N. Doc. A/HRC/8/31/Add.1 (June 16, 2008) [hereinafter A/HRC/8/31/Add.1].

7. U.N. Human Rights Council, 8th Sess., Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review, Tonga*, ¶ 5, U.N. Doc. A/HRC/8/48 (June 5, 2008).

8. U.N. Human Rights Council, 8th Sess., Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review, Japan*, ¶ 9, U.N. Doc. A/HRC/8/44 (May 30, 2008) [hereinafter A/HRC/8/44].

Yet, Japan's "[d]elegation explained that those members of the general public called 'saiban-in', are to participate in deciding conviction or acquittal, and sentencing with equivalent weight being given to their opinion as to that of the professional judge from May 2009."⁹

The Netherlands declined to adopt various recommendations made to it, including:

Initiate a debate on the death penalty, with a view to reaching responsive conclusions consistent with international human rights law (Egypt).

The Kingdom of the Netherlands firmly opposes the death penalty everywhere. Capital punishment was abolished in the Netherlands in 1870. This principle is enshrined in the Constitution and applies even in wartime. The Kingdom of the Netherlands pursues the worldwide abolition of the death penalty partly through its bilateral foreign policy and more importantly through close cooperation with its EU partners. The Kingdom of the Netherlands therefore can not support this recommendation.¹⁰

II. RELIGIOUS TOLERANCE

In response to the question by the United Kingdom on measures concerning garments covering the face, the State Secretary for Justice informed that the Netherlands considers wearing clothing that completely covers the face as undesirable. Wearing such clothing impedes open communication between people and equal opportunities for men and women. It also hampers the position of women in social transactions. At the same time, wearing Islamic face-covering clothing such as a burka or niqāb is a form of religious expression, and religious freedom may only be restricted in specific and closely defined situations.¹¹

The major monotheistic religions now bear a special responsibility for social and religious harmony in Switzerland. As a result, senior Christian, Jewish and Muslim leaders created the Swiss Council of Religions in 2006. This is a private body that seeks to promote mutual understanding between religious communities and act as an interlocutor with the Confederation.¹²

9. *Id.* ¶¶ 9–10.

10. U.N. Human Rights Council, 8th Sess., Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review, The Netherlands*, ¶ 2, U.N. Doc. A/HRC/8/31/Add.2 (June 13, 2008).

11. U.N. Human Rights Council, 8th Sess., Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review, The Netherlands*, ¶ 16, U.N. Doc. A/HRC/8/31 (May 13, 2008).

12. U.N. Human Rights Council, Working Group on the Universal Periodic Review, 2d Sess., *National Report Submitted in Accordance with Paragraph 15(A) of the Annex to Human Rights Council*

On 1 May 2007, a campaign was launched to collect signatures for a referendum proposal to ban the construction of minarets. If it is successful, the Federal Authority will decide on its compatibility with, in particular, the peremptory norms of international law (Constitution, art. 139). The initiative reflects the positions of a group of citizens, not those of the Government, which will need to take an official position should it succeed.¹³

Regarding the 2004 [French] legislation which forbids employees and students of public schools to wear conspicuous religious symbols and the ruling of the European Court of Human Rights that the law banning religious symbols in schools did not violate the freedom of religion, the United States of America enquired about the impact of this law on religiously observant children and teachers, asked how many children have been expelled or teachers fired from school since 2004, and enquired about steps the Government has taken to integrate these children into society.¹⁴

The Act of 15 March 2004 prohibiting the wearing of conspicuous religious symbols in state schools—primary and secondary—was intended to reaffirm the principle of secularism, which guarantees freedom of conscience and protects the freedom to believe or not to believe, while ensuring that all individuals are free to express and peacefully live their faith and to practice their religion. . . . ‘Conspicuous religious symbols’ means symbols and dress the wearing of which is tantamount to excessive religious is proselytizing. Discreet signs of religious affiliation, however, are authorized. . . . In extreme cases, exclusion does not deprive the persons concerned of the right to education, since they still have the option of distance learning or enrolment in private religious or non-religious education.¹⁵

III. INDIGENOUS PEOPLES

On the question of how Finland currently guaranteed the right to consultation of collective property for the Sami people in regard to lands, the delegation in its reply stated that environmental projects may affect the traditional livelihood of Sami people. The special legislation relating to the environment and land use provided legal safeguards for those whose rights or

Resolution 5/1, Switzerland, ¶ 57, U.N. Doc. A/HRC/WG.6/2/CHE/1 (Apr. 9, 2008) [hereinafter A/HRC/WG.6/2/CHE/1].

13. *Id.* ¶ 58.

14. U.N. Human Rights Council, 8th Sess., Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review, France*, ¶ 32, U.N. Doc. A/HRC/8/47 (June 3, 2008) [hereinafter A/HRC/8/47].

15. U.N. Human Rights Council, Working Group on the Universal Periodic Review, 2d Sess., *National Report Submitted in Accordance with Paragraph 15(A) of the Annex to Human Rights Council Resolution 5/1, France*, ¶ 25, U.N. Doc. A/HRC/WG.6/2/FRA/1 (May 2, 2008) [hereinafter A/HRC/WG.6/2/FRA/1].

interests were concerned, including the Sami people. Provisions on the right to issue an opinion and a right of appeal were included, for example, in the Environment Protection Act, the Land Use and Construction Act, the Nature Conservation Act and the Act on Environmental Impact Assessment. The Finnish Government stated that it pursued actively the enhancement of the rights of the Sami people and that the objective of the present Government was to solve the issue of the land use question during the present term of the Government. It was further stated that the Government Bill was under preparation and there were active negotiations between the Ministry of Justice, the Ministry of Agriculture and Forestry and the Sami Parliament, which was a necessary partner in the negotiations. The point of departure was to ensure the culture of the Sami people and the right of Sami to use the land they traditionally occupied or where they traditionally lived. Another question is related to the right of Sami people to participate in decision-making on the use of land in the Sami homeland area. The aim of the Government was to find a solution that would include the prerequisites to ratify ILO Convention No. 169. Another ongoing project in Finland concerning the rights of Sami is the establishment of a new Sami Cultural Centre, which is to be built in Lapland, in the Sami homeland. The Government has already reserved the Samis' ability to independently maintain and develop their culture, language and community life, manage and nurture their cultural and linguistic autonomy, and support the development of their living conditions. The premises will be used by the Sami: the Centre will be a Sami Parliament house, Sami library, a concentration of culture, education and skill resources, as well as an events venue for meetings, music, cinema and theatre. The Centre will be in use in 2012.¹⁶

The [Japanese] Government recognized as a historical fact that the Ainu people indigenously inhabited northern Japan, in particular Hokkaido, and that Ainu is a minority as stipulated in article 27 of ICCPR. Japan promoted the Ainu culture and disseminated information about Ainu traditions based on the Ainu Cultural Promotion Law, and supported the enhancement of the lives of the Ainu people.¹⁷

IV. GENDER EQUALITY

“Palestine welcomed that the speaker of the [Pakistani] Parliament is a woman and that Pakistan has 11 women ambassadors in Europe alone.”¹⁸

16. U.N. Human Rights Council, 8th Sess., Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review, Finland*, ¶ 21, U.N. Doc. A/HRC/8/24/Add.1 (June 17, 2008).

17. A/HRC/8/44, *supra* note 8, ¶ 16.

18. U.N. Human Rights Council, 8th Sess., Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review, Pakistan*, ¶ 8, U.N. Doc. A/HRC/8/42 (June 4, 2008) [hereinafter A/HRC/8/42].

Pakistan stated its indebtedness to NGOs which have allowed governments to become conscious of the issue of honour killings, and have passed legislation in this regard. The issue now is how such legislation will be implemented and breakaway from a patriarchal system that has been in place for a long time. It will take some time.¹⁹

V. NON-MARITAL SEX

Regarding the issue of non-marital consensual sex, [Pakistan] high-lighted that this was not recognized as a human right and that every society has its norms and values; freedoms and limits are derived there from. In Pakistan, non-marital consensual sex falls under the definition of adultery and dealt with under the *Haddood* laws. The offense can only be proved by confession, or with four witnesses,²⁰ as it is considered an act against society.²¹

VI. TREATIES

Switzerland's National Report stated that it has a "monistic tradition; an international treaty ratified by the Federal Council (the Executive, consisting of seven members) is part of the legal system from the date of its entry into force in Switzerland, without any need to incorporate it into domestic law by adopting a special law."²²

The Swiss political system may be termed a 'semi-direct democracy' which means that the legislative texts adopted as a result of parliamentary debates are not final because the Constitution recognizes the right of popular referendum. Thus if, within 100 days of the adoption of a law by the Federal Parliament, 50,000 valid signatures are collected from voters who would like the new law to be approved by the people, the law must be voted on by the people and cannot enter into force unless a majority of the citizens voting so decide. The same applies where requested by eight cantons.²³

VII. CHILDREN'S RIGHTS

The NGO Coalition reported that, contrary to the requirements of the Convention on the Rights of the Child, corporal punishment of children in the

19. *Id.* ¶ 101.

20. A Muslim member of the U.N. Sub-Commission on the Prevention of Discrimination and Protection of Minorities noted publicly in a Sub-Commission debate that, over time, the requirement of four witnesses evolved to the point where they were all obliged to swear they saw penetration to the extent of a walnut shell.

21. A/HRC/8/42, *supra* note 18, ¶ 49.

22. A/HRC/WG.6/2/CHE/1, *supra* note 12, ¶ 7.

23. *Id.* ¶ 14.

[Swiss] home has still not been formally prohibited. The Global Initiative to End All Corporal Punishment of Children (GIEACP) added that corporal punishment is lawful in the home.²⁴

“According to the NGO Coalition, the Lifelong Detention Act adopted by the Swiss Parliament at the end of 2007 may prove to contravene the European Convention on Human Rights, as it offers detainees the possibility of having their detention regularly reviewed only under very restrictive conditions.”²⁵

VIII. NATIONAL REMEDIES

The French national report pointed out that:

‘Independent administrative authorities’ or other independent bodies have been set up in France to protect citizens’ rights. These include the Ombudsman of the Republic, the National Consultative Ethics Committee (CCNE), the National Commission on Information Technology and Civil Liberties (CNIL), the National Security Ethics Committee (CNDS) and the Children’s Ombudsman. The establishment of the High Authority against Discrimination and for Equality (HALDE) in 2006 was an important step forward, as was the Act of 2007 establishing the office of controller-general of places of deprivation of liberty.²⁶

France told its working group that, “[a]ll detainees will be able to directly access the *Médiateur de la République* as of 2010. Detainees are currently able to challenge all administrative sanctions and decisions in front of a judge.”²⁷

IX. MINORITIES

A critical observation came from the Russian Federation, which, noting “that France has historically rejected the concept of recognizing minorities and that treaty bodies have recommended that France reconsider its position, . . . recommended that France find effective ways of realizing the rights of individuals belonging to ethnic, religious and linguistic minorities.”²⁸

24. U.N. Human Rights Council, Working Group on the Universal Periodic Review, 2d Sess., *Summary Prepared by the Office of the High Commissioner for Human Rights, in Accordance with Paragraph 15(C) of the Annex to Human Rights Council Resolution 5/1, Switzerland*, ¶ 22, U.N. Doc. A/HRC/WG.6/2/CHE/3 (Apr. 3, 2008).

25. *Id.* ¶ 26.

26. A/HRC/WG.6/2/FRA/1, *supra* note 15, ¶ 7.

27. A/HRC/8/47, *supra* note 14, ¶ 8.

28. *Id.* ¶ 54.

X. TORTURE

Awareness campaigns on torture have been conducted [in France] and a manual for the medical profession has been published on identifying the effects of torture. The manual was compiled by the Ministry of Health in collaboration with the Association for the Victims of Repression in Exile (Association pour les victimes de la repression en exil).²⁹

Torture is defined in case law as follows: ‘Torture or acts of barbarity require the demonstration of a material element, involving the commission of an act or a number of acts of exceptional seriousness, which exceed simple violence and cause the victim acute pain or suffering, and a moral element involving the desire to deny the victim human dignity.’³⁰

‘In keeping with its commitment to combat impunity for perpetrators of human rights violations, France has been particularly active in promoting international criminal justice and the role of the International Criminal Court.’³¹

XI. MONITORS

Sri Lanka, despite its violent internal unrest,³² stated in its national report, that it ‘demonstrated a high degree of openness and transparency by engaging constructively with a number of high-profile U.N. officials who have visited the country upon the invitation of the Government. In June 2007, Sri Lanka was elected as a Vice President of the Council representing the Asian Group.’³³

Manfred Novak, U.N. Special Rapporteur on Torture,

thanked the Government [of Sri Lanka] for granting him access to prisons and police detention facilities without restrictions, including the carrying out of unannounced visits, and enabling him to conduct private interviews with detainees. He stated that he fully appreciated the challenges the Government is faced with from the violent and long lasting conflict with the LTTE.³⁴

29. A/HRC/WG.6/2/FRA/1, *supra* note 15, ¶ 82.

30. *Id.* ¶ 90.

31. *Id.* ¶ 121.

32. On October 7th, 2008, the Spokesman for the Secretary-General stated that Mr. Ban Ki-moon ‘deplores yesterday’s suicide attack in Anuradhapura, Sri Lanka, which wounded scores and killed a large number of people, including retired army General Janaka Perera. . . . He reiterates his consistent position that no cause or grievance can justify indiscriminate attacks against civilians.’ Press Release, U.N. Secretary-General, Secretary General Strongly Condemns Sri Lanka Suicide Attack, U.N. Doc. SG/SM/11850 (Oct. 7, 2008), <http://www.un.org/News/Press/docs/2008/sgsm11850.doc.htm> (last visited Feb. 5, 2009).

33. U.N. Human Rights Council, Working Group on the Universal Periodic Review, 2d Sess., *National Report Submitted in Accordance with Paragraph 15(A) of the Annex to Human Rights Council Resolution 5/1, Sri Lanka*, ¶ 92, U.N. Doc. A/HRC/WG.6/2/LKA/1 (May 2, 2008).

34. *Id.* ¶ 64.

Professor Philip Alston, who recently published a critical report on the United States in his capacity as U.N. Special Rapporteur on extrajudicial, summary or arbitrary executions, “was invited by the Government to visit Sri Lanka. The Government provided him with all necessary assistance and facilitation in connection with his visit during the period 28 November to 6 December 2005.”³⁵

Sri Lanka told the UPR working group that it was

not in agreement with the suggestion for the establishment of a monitoring mission. The imposition of foreign institutions will stifle the potential for growth of national institutions charged with these functions at present. Sri Lanka cherishes and wishes to nurture national institutions which benefit all its people.

... The induction of groups who have previously resorted to terror into the mainstream of politics is a gradual process which cannot be achieved overnight. This development, which is entirely salutary in the context of re-democratization of the Eastern Province, should not be confused with the existence of armed paramilitary groups. Complete disarming of paramilitaries will take place when normality is restored, sporadic threats from the Liberation Tigers of Tamil Eelam (LTTE) die down and democracy takes a firmer foothold.³⁶

The United States, from its vantage point as a mere Government Observer, not a Council member,

noted Sri Lanka’s struggle against terrorism and recommended the following: (a) re-engage with international human rights monitoring and assistance mechanisms by agreeing to establish an OHCHR field presence, whose mandate would allow unfettered access to monitor, investigate and report human rights violations and promote remedial measures, including criminal investigation, prosecution and capacity-building of domestic human rights mechanisms; (b) ensure the adequate completion of investigations into the killings of aid workers, including by encouraging the Presidential Commission of Inquiry to use its legal powers to their full extent; (c) demobilize child soldiers by assuring children serving with pro-government militias (forced or voluntary) are released and adequate resources allocated for disarmament, demobilization, reintegration, repatriation and other activities to halt the unlawful recruitment of children; (d) Sri Lanka’s plan to

35. *Id.* ¶ 76.

36. U.N. Human Rights Council, 8th Sess., Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review, Sri Lanka*, ¶¶ 8, 13, U.N. Doc. A/HRC/8/46 (June 5, 2008).

address the forcible recruitment of child soldiers should be publicized and (e) Sri Lanka should work with international and domestic non-state actors to halt the recruitment and use of child soldiers.³⁷

It will be interesting to see if Sri Lanka presents the United States with its own laundry list of recommended improvements when the U.S. turn for UPR scrutiny arrives in 2010.

XII. RELATION OF UPR TO TREATY BODIES' REVIEWS

The question whether UPR "could avoid duplicating, or overturning, the work and recommendations of the seven functioning U.N. human rights treaty bodies" is dealt with by a veteran U.S. treaty body member, Felice Gaer, Member of the U.N. Committee against Torture since 2000, in *Human Rights Law Review* 7:1.³⁸

In its UPR review,

The Netherlands pointed out that it should be kept in mind, however, that the universal periodic review was an additional tool for human rights monitoring, intended to complement and not duplicate the work of the treaty bodies and the special procedures. Furthermore, the review should not detract from the mandate of the Human Rights Council to act upon gross human rights violations in specific countries.³⁹

XIII. FUTURE OF UPR

According to the annotated agenda for the Council's ninth (8-26 September 2008) session,

The third session of the Working Group [on UPR] is scheduled to be held from 1 to 12 December 2008.

... The following order of review for the third session of the Working Group was established on 21 September 2007 by the drawing of lots: Botswana, Bahamas, Burundi, Luxembourg, Barbados, Montenegro, United Arab Emirates, Israel, Liechtenstein, Serbia, Turkmenistan, Burkina Faso, Cape Verde, Colombia, Uzbekistan, Tuvalu (A/HRC/6/22, annex VII).⁴⁰

37. *Id.* ¶ 75.

38. See Felice D. Gaer, *A Voice Not an Echo: Universal Periodic Review and the UN Treaty Body System*, 7 HUM. RTS L. REV. 109 (2007).

39. A/HRC/8/31/Add.1, *supra* note 6, ¶ 9.

40. U.N. Human Rights Council, 9th Sess., *Annotations to the Agenda for the Ninth Session of the Human Rights Council*, ¶¶ 51-52, U.N. Doc. A/HRC/9/1 (July 28, 2008).

While Israel will thus be scrutinized in the UPR process, it will also be dealt with under agenda item seven, on the “human rights situation in Palestine and other occupied Arab territories.”⁴¹ Presumably the United States, which participates in the UPR of other countries⁴² despite its non-membership in the Council, will do so when Israel is under the magnifying glass and will take an active role as a non-Member Observer State in item seven. The “troika” of three countries chosen to lead the study of Israel is to be the Republic of Korea, Azerbaijan and Nigeria.⁴³ I do not so far see the need for what the High Commissioner for Human Rights urged in her annual report to the General Assembly’s 63rd session, A/63/36, where she said at page two that, “the universal periodic review could benefit from some form of independent expertise being instilled in the process in order for it to evolve into an implementation-oriented mechanism with targeted and prioritized recommendations to be addressed to the states under review.”⁴⁴ That sounds a bit too authoritarian a stand for the U.N. to take, and one likely to chill the warm reception that UPR thus far has received.

XIV. CONCLUSION

If, in December 2008, at the third session of the UPR Working Group, the forbearance shown to date continues, this novel form of country review will be off to a solid start, and UPR should by then be embedded in the U.N.’s new human rights regime. It should not compete with, duplicate, or in any way seek to supersede the established treaty body review techniques but should honor the “complementarity” urged by Tonga and other UPR participants.

41. See U.N. Human Rights Council, 7th Sess., Human Rights Situation in Palestine and Other Arab Occupied Territories, *Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967*, U.N. Doc. A/HRC/7/17 (Jan. 21, 2008) (prepared by John Dugard).

42. The United States asked Tonga about the status of security forces who were accused of physically abusing detainees arrested following the November 2006 riots, and asked if the security forces have been held accountable for these abuses. It recommended that Tonga launch a credible investigation into reports that surfaced following the riots and prosecute offenders. A/HRC/8/48, *supra* note 7, ¶ 27.

43. See Universal Periodic Review, UPR- TROIKA, *Third Session Of The Working Group*, www.upr-info.org/IMG/pdf/Troika_session_3.pdf (last visited Feb. 5, 2009).

44. G.A. Res. 48/141, ¶ 5, U.N. GAOR, 63rd Sess., Supp. No. 36, U.N. Doc. A/63/36 (2008).