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## Human Rights Council

### **Eighteenth session**

Agenda items 2 and 3

### **Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General**

**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

## **Report of the Office of the United Nations High Commissioner for Human Rights on the Workshop on the Role of Prevention in the Promotion and Protection of Human Rights\* \*\***

### *Summary*

The Human Rights Council adopted, at its fourteenth session, resolution 14/5 on the role of prevention in the promotion and protection of human rights. By this resolution, the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to consult States, national human rights institutions (NHRIs), civil society and other relevant stakeholders, using a questionnaire format, on the conceptual and practical dimensions of prevention with regard to the promotion and protection of human rights, and to compile and publish the responses. Building on that research, the Council further requested that OHCHR convene a workshop, based on the information gathered from the questionnaire, to further explore the role of prevention in the promotion and protection of human rights, and to present a summary of the workshop proceedings to the Council at its eighteenth session.

The questionnaire, circulated to States, NHRIs and non-governmental organizations (NGOs), received 53 responses regarding, inter alia, the legal framework of States, functional capacity needs, core promotion and protection activities, priority thematic areas, addressing the Millennium Development Goals from a human rights perspective, rule of

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\* Late submission.

\*\* All references to Kosovo, whether to the territory, institutions or population, shall be understood in the context of Security Council resolution 1244 (1999), and without prejudice to the status of Kosovo.

law and democracy, statistics and data collection, participation rates in the international human rights system, and interaction with NGOs.

Building on the findings from the questionnaire, OHCHR held a workshop exploring the question of prevention in the context of the promotion and protection of human rights. It was structured around the prevention of torture and ill-treatment and the prevention of human rights violations related to human trafficking and migration, in order to allow for the findings related to structural issues from the questionnaire to be explored in more detail.

The questionnaire and the workshop revealed four key findings with regard to the ability of States and non-State actors to understand and take action on the prevention of human rights violations. The key findings were:

- (a) There is a need to further elaborate what prevention means in practice. The concept of prevention in the context of human rights needs to be further developed;
- (b) A holistic and strategic action on human rights across all functions of the State will result in a more effective prevention;
- (c) An improved collection and disaggregation of statistics and data related explicitly to human rights will have a key impact on the prevention of human rights violations;
- (d) Initiatives to tackle discrimination, in particular against vulnerable groups, should apply to the full range of vulnerable groups in the community.

Two main recommendations are made based on these findings:

- (a) As a follow-up to the responses to the questionnaire and the discussion at the workshop, further research is recommended to be undertaken on the different aspects of prevention, and on consolidating the different definitions and approaches to prevention. There is a need to develop in States, NHRIs and non-State actors a stronger understanding of the implications and practical application of prevention, especially as it relates to all areas of discrimination;
- (b) It was recommended that practical tools be developed to support States and other actors in understanding the role of prevention and to guide them through the developing of strategic and integrated prevention policies at a national level.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–11	4
A. Background.....	1–3	4
B. Questionnaire.....	4–6	4
C. Workshop.....	7–11	5
II. States .....	12–21	6
A. Legislation, policies and programmes .....	12–16	6
B. Bodies, structures and mechanisms .....	17–19	7
C. Human rights education and awareness-raising.....	20–21	8
III. National human rights institutions .....	22–27	8
IV. Non-governmental organizations .....	28–33	9
V. Key findings.....	34–50	9
A. The concept of prevention .....	34–37	9
B. Strategic action .....	38–40	10
C. Statistics and data collection.....	41–45	11
D. Understanding the diversity of discrimination.....	46–50	11
VI. Conclusions and recommendations .....	51–57	12
<b>Annexes</b>		
I. Responses received .....		14
II. Responses by region.....		16
III. Questionnaire .....		17
IV. Workshop agenda.....		21

## **I. Introduction**

### **A. Background**

1. At its fourteenth session, the Human Rights Council adopted resolution 14/5 on the role of prevention in the promotion and protection of human rights. In the resolution, the Council expressed concern about continued human rights violations around the world and reaffirmed the obligation of States under the Charter of the United Nations to promote universal respect for and observance of human rights and fundamental freedoms.

2. The Human Rights Council stressed the importance of effective preventive measures as part of the overall strategies for the promotion and protection of human rights, as well as the need for States to promote supportive and enabling environments for the prevention of human rights violations. It further recognized that States have a primary responsibility for the promotion and protection of human rights, including the prevention of human rights violations, and that this responsibility involves all branches of the State. In addition, the Council encouraged States to strengthen the mandate and capacity of national human rights institutions (NHRIs), where they exist, to enable them to fulfil their preventive role in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

3. The Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to consult States, NHRIs, civil society and other relevant stakeholders, using a questionnaire format, on the conceptual and practical dimensions of prevention with regard to the promotion and protection of human rights, and to compile and publish the responses. Building on that research, the Council further requested that OHCHR convene a workshop, based on the information gathered from the questionnaire, to further explore the role of prevention in the promotion and protection of human rights, and to present a summary of the workshop proceedings to the Council. The present report contains the summary of the responses to the questionnaire as well as of the workshop.

### **B. Questionnaire**

4. The questionnaire was circulated to States, NHRIs and non-governmental organizations (NGOs) to capture data and to take stock of preventive mechanisms put in place through policies, programmes and projects on the prevention of human rights violations. The responses provided the basis for taking forward the workshop and other future initiatives related to prevention, including those influencing the work of United Nations human rights bodies, in order to promote and protect human rights, both individually and collectively. The questionnaire is included in full in annex III to the present document. OHCHR received responses from 24 Governments, 21 NHRIs and 8 NGOs, for a total of 53 responses (see annex I); 9 were received from Africa, 7 from the Americas, 10 from Asia and the Pacific and 26 from Europe (see annex II).

5. The questionnaire was used to evaluate, among other things, the legal framework of States, functional capacity needs, core promotion and protection activities, priority thematic areas addressing the Millennium Development Goals from a human rights perspective, the rule of law and democracy, statistics and data collection, participation rates in the international human rights system, and interaction with NGOs. The questionnaire also included a number of qualitative questions which required respondents to provide in-depth

explanatory comments, and the respondents were encouraged to provide details of their policies, programmes and projects to promote and protect human rights.

6. From the trends shown in the responses and particular comments from respondents, one can draw general conclusions about the core issues and capacity needs in relation to both institutional characteristics (such as legal framework, mandate and budget) and performance (such as resource allocation, working methods and relationships). A brief summary of the results showed that:

(a) A large majority of respondents have laws, policies and programmes in place to prevent human rights violations. However, the implementation of these mechanisms is still a challenge in most States;

(b) A number of respondents are carrying out activities relating to human rights education and research. However, many indicated a lack of capacity and resources to do so;

(c) Most respondents recognized the need to improve engagement with vulnerable groups and minorities.

### **C. Workshop**

7. Building on the findings from the questionnaire, on 20 May 2011 OHCHR held a workshop exploring the question of prevention in the context of the promotion and protection of human rights. It was structured around two sessions, one focusing on civil and political rights and the other on economic and social rights, to allow for the findings relating to structural issues from the questionnaire to be explored in more detail. The case studies, which were presented from the perspectives of the State, the NHRI and the NGO community, focused on the prevention of torture and ill-treatment and the prevention of human rights violations related to human trafficking and migration, with regard to the discrimination component in particular. The workshop was attended by a range of actors, including States, NHRIs and NGOs. The agenda of the workshop is contained in annex IV.

8. The morning session focused on understanding the concept of prevention as it related to torture and other ill-treatment, with panellists emphasizing the role of the State in developing and participating in formal structures to address torture and ill-treatment. Central to this discussion was the exploration of the effectiveness of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, with the New Zealand NHRI describing how being the designated national preventive mechanism had worked in practice. All panellists agreed that an essential component to prevention was understanding the underlying reasons why the human rights violation occurred, and addressing them. In the case of torture and ill-treatment, it was argued that the structural areas that were most important to prevention were the legal frameworks, the political context, the organization and efficiency of the criminal justice system, and the independence of the judiciary. It was also noted that any situation that featured a total imbalance of power, such as during the initial period of arrest, police custody or transfers between places of detention, also carried a higher risk for torture and ill-treatment. In order to prevent cases of torture and ill-treatment, States must examine those areas and ensure that they are functioning in a transparent and open manner. In terms of creating mechanisms to support prevention, panellists recognized the value of the Optional Protocol as a formal mechanism at the international level to assist States with developing and ensuring compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It was recognized that a central component of the success of the Optional Protocol was that it was a voluntary mechanism that acted to support States to achieve greater compliance. A further success of the Optional Protocol as a prevention mechanism was that it acted across areas such as access to places

of detention, access to documents relating to detention, and interviews with relevant individuals, including those who were detained. The approach was comprehensive and considered the individual situation in the State, and the functioning of specifically the penitentiary system, but also the system more broadly. The creation of holistic regulatory frameworks and policies by the State would ensure that there was limited space for human rights violations to occur.

9. The importance of understanding the context of and risk factors for human rights violations was also reflected in the afternoon session in the context of migration, trafficking and discrimination. All panellists made clear that in order to fully prevent violations caused by migration and trafficking, it was essential to understand and address the economic context in which such movement occurred. People became vulnerable to trafficking, it was argued, because they were discriminated against and their economic and social rights were denied. It was further suggested that the phenomenon needed to be understood in the context of the world economic crisis. The pool of potential victims was rapidly growing due to patterns of widespread inequality, lack of employment opportunities, insecurity of food and livelihood, violence, conflict, discrimination and poverty. Building on this, the panellists agreed that it was essential to also look at the demand side of trafficking, which included the social, political and economic factors that developed and sustained the market for trafficking. To work on the prevention of human rights violations that were the result of migration and trafficking, it was essential to reduce the demand for exploitative sex and labour that led to that trade; such demand was linked to distorted market forces in the countries of destination, and weaknesses in the national, regional and international frameworks that allowed for impunity.

10. With regard to international human rights instruments, although there have been developments over the last three decades to address the issue of migration and trafficking, there are still gaps and challenges related to the non-application of the international norms. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was highlighted as an example, having been ratified by only a handful of States. While international law does clearly identify the forms of trafficking and the obligations on States with regard to the appropriate treatment of victims, there were still gaps in protection both within certain States and between countries of origin and countries of reception.

11. The questionnaire focused extensively on the structural and policy response that States, NHRIs, NGOs and other actors are taking to reflect the role of prevention in their functions. While responses varied between actors, some common responses and conclusions could be drawn from each sector.

## **II. States**

### **A. Legislation, policies and programmes**

12. Alongside voluntary pledges and commitments, States reported that they were ensuring the protection and promotion of human rights through the ratification of international human rights treaties and taking measures on their implementation. The ratification of regional charters, such as the European Social Charter, was another way of developing these protections.

13. Many States are introducing amendments and legal reforms for ensuring better human rights protection in their legislative frameworks. As a common rule, States reported that national constitutions were the main and fundamental legislation ensuring human rights protection, which in some cases was being complemented by specific legislation on certain

human rights issues, such as discrimination, equal opportunity and treatment, and provision of legal aid to the poor. Some national legislation also provides sanctions for unequal treatment in employment and for harassment. In some States, offences committed based on discrimination were considered as having aggravating circumstances and in other States, the fact of discrimination based on religion was a criminal offence.

14. In defining priorities and policies, States reported that they were in the process of developing, implementing and updating national action plans on human rights. Thematic action plans were also mentioned, with regard to human rights education, health, social welfare, minorities, and violence against women. Policies in relation to ensuring economic, social and cultural rights included comprehensive pension systems, national housing programmes, and social programmes for times of crisis and for the prevention and reduction of poverty.

15. In order to ensure cooperation and cohesion, some States indicated that they had developed focal points on human rights issues in designated government ministries and agencies. Certain States were imposing fines and sanctions for the non-implementation of economic, social and cultural rights. States were also supporting human rights organizations working at the national level, including civil society organizations and national human rights institutions. The support varied from incentives and subsidies to awarding grants for special initiatives. Training institutions were providing human rights education for civil servants, law enforcement officers, judges and prosecutors.

16. Considerable attention was given to disadvantaged groups in State policies. With increases in migration, governments have been taking measures to protect the rights of their citizens in the context of both legal and illegal migration, while some States have developed bilateral agreements guaranteeing the rights of migrant workers. Projects have been implemented for the inclusion of migrant children in the educational system, as well as the drafting of new school curricula with human-rights-based approaches. An integration programme for disabled students was introduced along with a provision of incentives for the employment of persons with disabilities.

## **B. Bodies, structures and mechanisms**

17. When asked what organizations or structures they had created to act as prevention bodies, States invoked commissions, committees, ombudsmen and public defenders. Some of these bodies were formal NHRIs in compliance with the Paris Principles.

18. States also reported that, in the absence of a specific body, they had developed practices and structures for prevention and for the protection of human rights. This included parliamentary committees on human rights, inter-ministerial groups, and inter-agency councils either on human rights or on thematic issues, such as human trafficking, corruption, domestic violence, torture and ill-treatment. In some States, human rights focal points and special units were established in ministries of internal affairs and other law enforcement agencies. States ensured the participation of non-State actors in these mechanisms.

19. There were also institutions dedicated to the rights of certain groups exposed to human rights abuses and violations. Those include authorities on minority groups, offices on nationalities, and offices on religious communities. In addition, some institutions were mandated to focus on specific issues; examples include an authority for monitoring illegal images and incitement of hatred on the Internet, an office against trafficking and an office dealing with NGO issues.

### **C. Human rights education and awareness-raising**

20. In most States, human rights education was seen as a priority and measures were taken to include it in the educational system. States reported that they were engaged in close cooperation with NHRIs and NGOs not only in promoting human rights education but also in identifying possible gaps and further defining measures for resolving them.

21. Some States reported that they had developed a number of television and radio programmes for raising public awareness. Training institutions had been established for creating more understanding among judicial officials, prosecutors, officers of correctional institutions and law enforcement officers. Briefings and special programmes had also been developed for decision-makers and high-level State officials. In one State, a mandatory human rights course had been introduced for new recruits of law enforcement agencies and for court judges. In other settings, to prevent violations and ensure security, armed forces were receiving additional human rights training.

### **III. National human rights institutions**

22. The submissions received from NHRIs indicated that they see themselves as playing a key role in the protection and promotion of human rights. One of the key ways that they undertake this role is through becoming involved in the enshrining of human rights within the national legislative framework and introducing a human rights-based approach in government policies.

23. In some States, national institutions were able to play a role in the prevention of human rights violations by becoming the key actors in legislative-reform processes and the identification of national policies on non-discrimination. Within this framework, NHRIs are being conferred with specific functions and responsibilities to address discrimination; to fulfil this mandate, NHRIs undertook awareness-raising trainings on race-related discrimination, public campaigns for tolerance and other initiatives, which included the empowerment of women.

24. Indeed, many NHRIs considered that their work in public awareness-raising and human rights education is their main tool for prevention. NHRIs organized trainings, seminars and workshops, targeting in particular representatives of the law enforcement agencies. NHRIs reported that they had created training programmes on human rights for high-level decision-makers, parliamentary members, government officials, judges and journalists, with some institutions making such training mandatory for new recruits. Some events incorporated advocacy activities aimed at the ratification of international human rights treaties and contributed to the fostering of a human rights culture.

25. Publications, media programmes and educational modules of NHRIs were complemented with the opportunities offered by the advancement of information technology. Internet-based social networks are making a huge contribution to the activities of NHRIs. These opportunities make it possible for NHRIs not only to quickly update the public on their activities, but also to increase their influence on public opinion. NHRIs continue to work for the promotion of human rights education in close cooperation with academia and research institutes.

26. NHRIs reported that they focused on economic, social and cultural rights when monitoring and evaluating the implementation of the commitments made by States for achieving the Millennium Development Goals.

27. NHRI also reported that they have an important obligation in fostering cooperation with various stakeholders, including civil society organizations, through joint inquiries, projects grants and awareness-raising activities such as trainings, seminars and workshops.

#### **IV. Non-governmental organizations**

28. Civil society organizations stated that they played an active role in advocating for legal reforms in line with human rights obligations and the commitments of a State. Governments were increasingly recognizing the distinctive role of NGOs in reviewing national legislation, regulations, policy documents, procedures and the conduct of law enforcement agencies.

29. Indeed, States considered civil society organizations as essential partners and looked for further possible engagement. In some countries, legal training organized by ministries or government agencies has been taking place in cooperation with the NGO community, including legal reforms and amendments.

30. In some places, special offices and units were established to provide NGOs with support and to assist in addressing their concerns and challenges. In order to ensure transparency in government conduct, some ministries had also created a system of frequent briefings on current updates and developments for representatives of NGOs.

31. Some States reported that they organized annual NGO forums on human rights. Prominent NGOs were recognized and granted membership in advisory and consultative bodies of different ministries and agencies. Furthermore, States reported that NGOs were directly involved and engaged in legislative drafting processes.

32. NGOs also reported that they played a key role in ensuring the effective implementation of legislation and programmes through ongoing monitoring and reporting.

33. Human rights training and awareness-raising were the main tools used by NGOs for the promotion and protection of human rights. Many human rights campaigns were organized either individually or jointly by civil society. NGOs reported a range of different methods used to foster a human rights culture, depending on context.

#### **V. Key findings**

##### **A. The concept of prevention**

34. Through the questionnaire, participants were asked about the steps they had taken to prevent human rights violations and to ensure the respect for human rights. They were asked to identify legislative frameworks, policies, programmes and administrative measures that expressly and specifically prevent human rights violations. The responses to this question were widely varied and included measures such as constitutional protections, the creation of an NHRI, the existence of Ministries of Justice or similar, court systems, and laws against the violation of human rights. Participants indicated that, while the responses to the question were all positive and welcome steps towards tackling human rights violations and impunity, both the range and the lack of detail provided may suggest that the concept of “prevention” in the context of human rights violations needs to be further developed.

35. In response to the question on what policies and programmes had been put into place to prevent human rights violations, States offered a wide range of initiatives as evidence of their work on prevention. This included creating national human rights action plans, action

plans on prisons, programmes for the integration of minority societies, strategies and programmes on child education, education policies, programmes for the prevention of HIV/AIDS and sexually transmitted diseases, health policies and strategies for minorities and disadvantaged groups, policies on equal opportunities for persons with disabilities, gender equality, children's rights, non-discrimination, sexual violence, migration and others.

36. During the workshop session on the prevention of torture the panel distinguished between two forms of prevention:

(a) Direct prevention, which aims to prevent torture from occurring by reducing the risk factors that cause it;

(b) Indirect prevention, which takes place when torture has already occurred but aims to avoid its reoccurring through justice and reparation.

37. It was recognized by most respondents to the questionnaire and by participants at the workshop that education and awareness-raising are central to promoting the prevention of violations. From the responses to the questionnaire, it appears that actors are focusing predominately on indirect prevention and identifying mechanisms that seek to remedy violations as opposed to preventing them outright. Thus there is a need to further develop, and raise awareness of, the concept of prevention.

## **B. Strategic action**

38. The participants noted that the responses from the questionnaire revealed the need for strategic action on human rights protection. It was reported that many States had enacted national action plans, in which the human rights-based approach was introduced to guide them in addressing their country's human rights needs, to raise awareness of human rights issues among government officials, security authorities, civil society organizations and the general public, to mobilize a broad spectrum of society in a cooperative atmosphere, to propose realistic activities and achievable targets and to promote linkages with other national programmes. However, despite this positive description, the participants acknowledged that there are still shortcomings regarding implementation and follow-up, as only half of the respondents had set up a formal structure within the existing government institutions tasked with strategy implementation.

39. Participants in the discussion on migration and trafficking indicated that the failure to ensure a cooperative strategic approach to migration between the countries of origin and the countries of reception resulted in gaps in protection for migrants.

40. By the same token, it was also clear during the session on the prevention of torture that one of the key elements of the success of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was that it addresses the wide range of elements that can lead to situations of torture and ill-treatment. By conducting a rigorous analysis of the legal and administrative frameworks, procedural rights and guarantees of a fair trial, and by conducting visits to places of detention, meeting with detainees and others, and gathering relevant information, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is able to get a clear understanding of the entire system and address both one-off incidences as well as systematic weaknesses.

### **C. Statistics and data collection**

41. A key barrier emerging from both the questionnaire and the workshop that is preventing all actors from engaging in effective prevention work is the lack of statistics and data illustrating the depth and extent of the problem.

42. Nearly all States reported that they had official agencies to collect data at the national and subnational levels based on standardized methodologies. It was indicated, however, that the use of this information has not been explored by States in monitoring civil and political rights along with economic and social rights.

43. From the NHRI perspective, there was a recognition that statistical data analysis allows the mapping of human rights violations and the identification of key priority areas, and therefore is an effective tool for the prevention by NHRIs of abuses and violations at early stages. However, even with this recognition, NHRIs were not in a position to undertake technical data collection and analysis. While some are in a process of developing specific indicators for the evaluation of the human rights situation in their respective countries, the main source of information for analysis and monitoring remains their complaints and petition registry. In this respect, NHRIs are benefiting from information-sharing with different organizations, both governmental and non-governmental, although challenges persist with regard to the accuracy of this information and with regard to cohesion among institutions responsible for collecting information. Another concern was raised on the funding of specific statistical surveys regarding implementation of rights of certain groups, such as persons with disabilities.

44. This gap in data collection was mirrored at the international level in the context of migration, when it was noted that the data on victims of trafficking is scant. There was concern that the inability to gather a full picture of the situation and its drivers limits the ability of States to respond effectively.

45. The participants reported that while statistics and data were seen as central to understanding human rights violations and to framing and developing effective policy and legislative responses, there remained significant gaps in data collection. These gaps undermine the ability of States and NHRIs to accurately prioritize human rights violations, and thus take action to prevent them from occurring. Some States and NHRIs requested the support and guidance of OHCHR in better understanding how to develop human rights indicators that can be used to gain a picture of the human rights situation in their domestic context.

### **D. Understanding the diversity of discrimination**

46. Through the questionnaire, States, NHRIs and NGOs were asked to identify the measures that they had taken to counter discrimination, in particular with respect to racial discrimination, discrimination on the grounds of sex or religion, and discrimination against the marginalized, including in the context of migration. Further, they were asked to identify issues that arise from the implementation of existing measures that provide human rights protection for specific groups vulnerable to discrimination, such as religious groups, ethnic groups, women, linguistic or cultural minorities, indigenous peoples, persons with disabilities, migrants, refugees, persons of African descent, victims of trafficking, persons with HIV/AIDS, the poor and others. It is important to take stock of the range of actions being taken to prevent human rights violations in those groups that are most vulnerable to violations.

47. Though the questionnaire, many States indicated that, alongside developing a legislative and policy framework to address discrimination, they had put in place sanctions

and penalties for discriminatory practices, while others had established State institutions to specifically handle issues of minorities and vulnerable groups, such as women, children, persons with disabilities, the poor, indigenous groups, the elderly, detainees, sexual minorities, migrants or non-nationals and ethnic minorities. Such institutions include NHRIs, ombuds-institutions, equality commissions and others which are aimed at ensuring equal treatment and equal opportunities for all in addition to fighting against discriminatory treatments and practices.

48. States had put in place programmes and policies aimed at integrating marginalized groups as well as encouraging tolerance, inclusive societies and cultural diversity. A number of countries in Europe had established programmes and policies for integrating and improving the conditions of Roma people, especially the children and youth.

49. A significant number of respondents also had established specialized government ministries and programmes as well as strategies to address specific issues, such as a strategy for the social inclusion of persons with disabilities, national programmes on gender equality, programmes on integrated social service systems, and programmes for preventing and combating discrimination. Some countries had established specific administrative offices, such as commissioners against discrimination, with the mandate to propose administrative and penal measures against perpetrators of discriminatory acts.

50. Several States had set up specialized departments or units addressing discrimination, including departments focused on racial discrimination (20 States), migrant workers (7 States), disability issues (40 States), religious discrimination (10 States), ethnic discrimination (9 States), linguistic discrimination (2 States), discrimination against lesbian, gay, bisexual and transgendered persons (5 States), and HIV/AIDS (5 States). Some participants indicated that the limited range of groups protected through the creation of special departments raises the concern that other groups are not being adequately recognized as suffering discrimination. Some notable omissions included departments dedicated to the prevention of discrimination based on age, economic status, gender and migration.

## **VI. Conclusions and recommendations**

51. **The implementation of Human Rights Council resolution 14/5, through a questionnaire and an interactive workshop, revealed that States, NHRIs, NGOs and experts recognize the importance of the role of prevention in the promotion and protection of human rights. The participants agreed that, while the core work of the Council tends to be more focused on addressing situations of violation, the long-term effectiveness of the Council will depend on its work on prevention. In this way, the prevention of human rights violations must be central.**

52. **The participants indicated that, despite this good will and commitment, many actors were not clear as to what prevention means in practice, which limited their ability to act on this agenda. Although at the international level there has been discussion about prevention, with multiple references to it in different human rights instruments, there is no one clear picture of what that means and how to apply it in a domestic or national context.**

53. **Compounding this lack of knowledge about what role prevention should play, the participants indicated that States are tending not to take strategic action to address human rights violations across all their functions. With some States having action plans, but few using human rights-based approaches, it appeared as if many of the activities undertaken to prevent human rights violations or to promote and protect human rights were limited in scope. Discussions on the Optional Protocol to the**

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment indicated that the strength of the process was that it took a more holistic view of each State's situation, allowing for recommendations and actions that addressed all causes of torture and ill-treatment. This could stand as a model for other action on human rights.

54. Underpinning the gaps in developing integrated human rights action plans was a lack of relevant data and statistics to identify problem areas. Although many States and NHRIs did engage in data collection, it was indicated that the data collected was not human rights specific and did not necessarily highlight issues relating to the prevention of violations. Some participants requested support in understanding how to design data sets and monitoring programmes to measure human rights, which would enable them to set goals and develop evidence-based programmes.

55. The discussion revealed that there is support and will for further work in this area, with all actors recognizing the essential role that the prevention of human rights violations plays in the promotion and protection of human rights. The discussions conducted and commitments made at the workshop indicated that further research and frameworks are required to assist States and other actors in overcoming the barriers that they are facing in understanding and mainstreaming the role of prevention in the promotion and protection of human rights.

56. On the basis of the responses to the questionnaire and the discussion at the workshop, it was recommended that further research be undertaken on the different aspects of prevention, and on consolidating the different definitions and approaches to prevention. There is a need to develop in States, NHRIs and non-State actors a stronger understanding of the implications and practical application of prevention, especially as it relates to all areas of discrimination.

57. Furthermore, it was recommended that, following on from the workshop, practical tools be developed to support States and other actors in understanding the role of prevention and to guide them through the development of strategic and integrated prevention policies at a national level.

## Annexes

### Annex I

#### Responses received

	<i>State or area</i>	<i>Government</i>	<i>NHRI</i>	<i>NGO</i>	<i>Total</i>
1	Algeria	•	•		2
2	Austria		•		1
3	Azerbaijan		•		1
4	Cyprus	•			1
5	Ecuador	•	•		2
6	Germany	•			1
7	Greece			•	1
8	Kosovo <sup>a</sup>		•		1
9	Lithuania	•			1
10	Malaysia		•		1
11	Republic of Moldova	•	•		2
12	New Zealand		•		1
13	Nigeria		•		1
14	Paraguay		•		1
15	Scotland <sup>b</sup>		•		1
16	Slovenia	•			1
17	Togo		•	•	2
18	Chile	•			1
19	Hungary		•		1
20	Maldives		•		1
21	France		•		1
22	Finland		•		1
23	India		•		1
24	Ethiopia	•			1
25	Montenegro		•		1

	<i>State or area</i>	<i>Government</i>	<i>NHRI</i>	<i>NGO</i>	<i>Total</i>
26	Albania	•			1
27	Guatemala	•			1
28	Portugal	•	•		2
29	Lebanon	•			1
30	Iraq	•		•	2
31	Slovakia	•			1
32	Italy	•			1
33	Bulgaria	•			1
34	Spain		•		1
35	Serbia	•			1
36	South Africa		•	•	2
37	Romania			•	1
38	Australia	•		•	2
39	Senegal			•	1
40	Suriname	•			1
41	Georgia	•			1
42	Honduras	•			1
43	Japan	•			1
44	Andorra	•			1
	<b>TOTAL</b>	<b>24</b>	<b>21</b>	<b>8</b>	<b>52<sup>c</sup></b>

<sup>a</sup> All references to Kosovo, whether to the territory, institutions or population, shall be understood in the context of Security Council resolution 1244 (1999), and without prejudice to the status of Kosovo.

<sup>b</sup> Scottish Human Rights Commission.

<sup>c</sup> The Association for the Prevention of Torture, an international non-governmental organization, also submitted a response, bringing the total received to 53.

## Annex II

## Responses by region

<i>Region</i>	<i>State submissions</i>	<i>National human rights institution submissions</i>	<i>Non-governmental organization submissions</i>	<b><i>Total</i></b>
Africa	1. Algeria 2. Ethiopia	1. Nigeria 2. Algeria 3. Togo 4. South Africa <sup>a</sup>	1. South Africa 2. Togo 3. Senegal	<b>9</b>
Asia and the Pacific	1. Iraq 2. Lebanon 3. Australia 4. Japan	1. Malaysia 2. New Zealand 3. India 4. Australia 5. Maldives	Iraq	<b>10</b>
Europe	1. Germany 2. Slovenia 3. Cyprus 4. Lithuania 5. Albania 6. Slovakia 7. Italy 8. Bulgaria 9. Serbia 10. Republic of Moldova 11. Georgia 12. Portugal 13. Andorra	1. Austria 2. Scotland <sup>b</sup> 3. Azerbaijan 4. Kosovo <sup>c</sup> 5. Republic of Moldova 6. Hungary 7. France 8. Finland 9. Montenegro 10. Portugal 11. Spain	1. Greece 2. Romania	<b>26</b>
Americas	1. Ecuador 2. Chile 3. Guatemala 4. Suriname 5. Honduras	1. Paraguay 2. Ecuador		<b>7</b>
International organizations			Association for the Prevention of Torture (APT)	<b>1</b>

<sup>a</sup> Commission for Gender Equality.

<sup>b</sup> Scottish Human Rights Commission.

<sup>c</sup> All references to Kosovo, whether to the territory, institutions or population, shall be understood in the context of Security Council resolution 1244 (1999), and without prejudice to the status of Kosovo.

## Annex III

### Questionnaire

#### **Measures of protection and promotion aimed at prevention of human rights violations and abuses at the national level**

1. What measures have been taken to prevent human rights violations and to guarantee the observance and enjoyment of human rights and fundamental freedoms, notably measures related to:

- (a) Countering discrimination, in particular racial discrimination, discrimination on the grounds of sex, religion and against others who are marginalized;
- (b) Combating impunity and strengthening accountability, the rule of law and democratic society;
- (c) Pursuing economic, social and cultural rights and combating inequalities and poverty in the context of economic, food, water and climate crises;
- (d) Protecting human rights in the context of migration;
- (e) Protecting human rights in situations of armed conflict, violence and insecurity.

#### **Legislative, judicial, administrative and other measures to prevent human rights violations**

2. Has your Government adopted, implemented or strengthened any national legislation, policies, programmes and/or administrative measures that expressly and specifically prevent human rights violations?
3. Has your Government taken steps to promote the human rights-based approach (HRBA) in its policies and programmes so as to have the international human rights standards incorporated in them?
4. What issues arise with regard to implementing existing measures (i.e. legislation, policies, plans, programmes) that provide for human rights protection of specific groups or populations vulnerable to discrimination, such as women, religious, ethnic, linguistic or cultural minorities, indigenous people, persons with disabilities, LGBTs, tribal peoples, migrants, refugees, people of African descent, victims of trafficking, HIV/AIDS victims, the poor and others?
5. What challenges have been faced in the implementation of laws, policies, plans and or programmes for promotion and protection of human rights? Please provide examples of good practices and lessons learnt.

#### **Establishment and reinforcement of independent specialized national institutions**

6. Has a national human rights institution (NHRI) been established in your country in accordance with the Paris Principles? Does the NHRI have a broad mandate to protect human rights?

7. Has your Government strengthened, reviewed and/or reinforced the effectiveness of independent NHRIs or other institutions working on the protection and promotion of human rights in your country?
8. Has your Government provided the above-mentioned institutions with the competence and capacity to handle and resolve complaints related to human rights violations or with the capacity for investigation, research, education and public awareness activities to prevent human rights violations? Please specify their mandate.
9. If your Government has not yet established an NHRI, please indicate what considerations may have prevented it from establishing one, or what efforts if any, are being made to establish one.

### **Action-oriented policies, practices and strategies in preventing human rights violations**

10. Has your Government established and/or implemented a national human rights in your country? (Please provide a brief account on the action plan)
11. Has your Government/institution established programmes to promote and protect human rights in all sectors such as health, education, work, environment, as well as other social services, law enforcement, judiciary, trade, and finance?
12. Has your Government/institution adopted or strengthened programmes to address the Millennium Development Goals using the human rights-based approach for eradicating poverty, underdevelopment, marginalization, economic disparities, social exclusion, etc.?
13. Has your Government/institution created any early warning mechanisms, for conflict prevention and the protection and promotion of human rights through emphasizing democracy, and the rule of law in your country?

### **Data collection and disaggregation research and study**

14. Does your Government/institution maintain and analyse statistical records on the situation of human rights in the country, especially cases of (alleged/attested) violations of human rights (i.e. events-based data), in order to monitor the human rights situation and inform the formulation of prevention strategies and programmes? YES / NO

If YES, please describe briefly what type of statistical information and data collection sources (e.g. complaints mechanisms, testimonies of victims, witnesses, information provided by the media, data processed by human rights monitoring mechanisms and NGOs) were used.

15. In supporting the assessment of prevention strategies, programmes and other related activities has your Government/Institution drawn on other statistical information (e.g. common socio-economic statistics)? YES / NO

If YES, please describe briefly what type of statistical information and data collection sources (e.g. administrative records, statistics surveys, census data) were used.

16. What are the main challenges in ensuring systematic collection and compilation of data on potential human rights violations?
17. Does your institution interact with statistical authorities (e.g. national statistical office, statistical commissions and/or government agencies) on the collection and compilation of statistical data relevant to the definition and/or assessment of prevention

strategies, programmes and related activities for the promotion and protection of human rights? YES/NO

If YES, please describe briefly the purpose of the interaction (e.g. new collection/dissemination of statistics, data disaggregation, data protection and/or other issues related to statistical legislations) and related institutional arrangements for the interactions with the statistical authorities (e.g. the participation of the NHRI in statistical programming is stipulated by legislation; consultative role of the NHRI; etc.)

18. Is your Government/institution interested in receiving further information and/or support from OHCHR on the use of statistical and other indicators to promote and monitor the implementation of human rights?<sup>1</sup> YES/NO

If YES, please specify the type of information and/or support that could be useful to your organisation and in your country context.

### **Education and awareness-raising**

19. Please indicate ways that your Government/institution has taken to increase the level of awareness on human rights and promotion of a human rights culture in your country. In this connection, do you have any awareness programmes for children, women, persons with disabilities, poor people, minorities and the media, which have been undertaken to prevent human rights violations? How effective are they?

20. Please indicate measures taken by your Government/institution in building and strengthening the human rights capacity of public officials, including personnel in administration of justice, particularly law enforcement, judicial, correctional, prison, and security officials, as well as among officials working in health care, education, social welfare, labour, immigration and border officials.

21. Are human rights education and training considered a priority in your national system? If yes, what is the legal basis (e.g. international law, constitution, national legislation, administrative practice, other)

### **Ratification of and effective implementation of relevant international and regional legal instruments on human rights**

22. If your State is not yet party to one or more international or relevant regional instrument listed in Annex I, please indicate:

(a) What are the considerations which may have prevented its ratification or its accession to the instruments indicated above?

(b) What steps have been taken or are being planned with a view to ratifying or accessing to these instruments?

### **Strengthening partnership with civil society**

23. What steps have been taken by your Government/institution to strengthen cooperation and develop partnership with non-governmental organizations (NGOs) and all

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<sup>1</sup> Information on this work available at <http://www2.ohchr.org/english/issues/indicators/index.htm>

other civil society actors to harness their experience and expertise to promote and protect human rights?

### **Provision of effective remedies, recourse and other measures at the national level**

24. What national measures exist to investigate and prosecute human rights violations and abuses?

25. What judicial and other remedies are available for victims of human rights violations? Has the effectiveness and adequacy of these remedies been evaluated?

If YES, what have been the results?

26. Is your State party to the International Covenant on Economic, Social and Cultural Rights?

27. What measures have been taken to make its provisions fully justiciable in your country?

28. What are the Government's/ institution's main achievements, good practices, gaps and obstacles in ensuring that victims attain effective remedies?

### **Way forward**

29. In your view, what concrete measures should be adopted and implemented to ensure the prevention of human rights at the national, regional and international level?

30. In your view, are there new emerging issues in your country related to the protection and promotion of human rights, or the prevention of human rights violations which need to be addressed at the national, regional or international level? Please elaborate.

## Annex IV

### Workshop agenda

#### Workshop on the role of prevention in the promotion and protection of human rights pursuant to resolution 14/5

International workshop, Geneva, Switzerland - 20 May 2011  
Palais des Nations - Room XIX

10:00-10:30 **Opening of the workshop by**

- Ms. Kyung-wha Kang,  
Deputy High Commissioner for Human Rights
- H.E. Ambassador Sihasak Phuangketkeo,  
President of the Human Rights Council

Morning session:

Prevention of violations of political and civil rights

10:30-12:00 *Chairperson* : H.E. Mr. Mykola Maimeskul  
Ambassador of Ukraine to the United Nations Office at Geneva

#### **Panel on prevention of torture and other ill-treatment**

- Mr. Olivier Obrecht, member,  
United Nations Subcommittee on Prevention of Torture (SPT)
- Ms. Rosslyn Noonan ,Chief Commissioner,  
Human Rights Commission of New Zealand
- Mr. Mark Thomson, Secretary General,  
Association for the Prevention of Torture (APT)

12:00-12:50 **Discussions and Q & A**

12:50-13:00 Wrap-up by the Chairperson

Afternoon session:

Prevention of violations of economic, social and cultural rights

15:00-16:30 *Chairperson*: H.E. Mr. Omar Hilale  
Ambassador of the Kingdom of Morocco to the United Nations Office at Geneva

**Panel on human trafficking, migration and discrimination**

- Mr. El Jamri, Chairperson,  
Committee on Migrant Workers
- Ms. Mariana Katarova, Senior Adviser on Anti-Trafficking Issues,  
OSCE Office for Democratic Institutions and Human Rights  
(ODIHR)
- Ms. Pregaluxmi Govender, Deputy Chairperson,  
South African Human Rights Commission

16:30-17:30 **Discussions and Q & A**

17:30-17:40 Wrap-up by the Chairperson

17:40-18:00 **Way forward**

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